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3.2 Contracting

3.2.1 Procurement Planning

3.2.1.1 Applicability Revised 4/2013

Written procurement plans are required for all FAA procurements except: real property, utilities, purchase card transactions and transactions less than $25,000. The specific content of a procurement plan may vary depending on the complexity of the procurement. The procurement planning templates in AMS must be used. Template A must be used for all simplified and commercial procurements and Template B must be used for all complex and non-commercial procurements.

3.2.1.2 Policy Revised 11/2009

Procurement planning is an indispensable component of the total acquisition process. Service organizations are expected to use procurement planning as an opportunity to evaluate/review the entire procurement process, so that sound judgments and decision making will facilitate the success of the overall program. For procurements not covered by an implementation strategy and planning document, procurement planning should be appropriate and proportionate to the complexity and dollar value of the requirement.

3.2.1.2.1 Market Analysis Revised 4/2013

The purpose of market analysis is to initiate industry involvement, develop and refine the procurement strategy, obtain price information, determine whether commercial items exist, determine the level of competition, identify market practices, or obtain comments on requirements. The magnitude and degree of formality of the market analysis should be proportionate to the contemplated procurement. The market analysis may be as simple as a telephone call or as formal as a market survey advertisement to learn of industry capabilities. All market analyses, formal or informal, should be appropriately documented.

3.2.1.2.2 Procurement Plan Revised 4/2013

A plan for each contemplated procurement or class of procurements should address the significant considerations of the procurement action. A procurement plan may cover more than one contract. The procurement plan represents the service organization agreement for conducting the procurement. See paragraph 3.2.1.1 for documentation requirements.

3.2.1.2.3 Consideration of Agency Wide Contracts Revised 1/2014

Agency Wide Contracts must be used to the maximum extent possible. The procurement plan must document which agency wide contracts were considered. If an applicable agency wide contract is available for utilization and is not utilized; the procurement plan must include the rationale for not utilizing the existing agency wide contract.

3.2.1.2.4 Independent Government Cost Estimate Revised 1/2010

An independent Government cost estimate (IGCE) is required for any anticipated procurement action (to include modifications) whose total estimated value is $100,000 or more, except for:

- Modifications exercising priced options or providing incremental funding;
- Delivery orders for priced services or supplies under an indefinite-delivery contract; or
- Acquisition of real property (i.e., land or space).

The CO may require an IGCE for procurement actions (to include modifications) anticipated to be less than $100,000.

3.2.1.3 Guidance and Principles Revised 11/2009

For procurements not covered in a program with an implementation strategy and planning document, the following elements should be considered in planning for procurements.

3.2.1.3.1 Development

Preference should be given to using commercial and previously developed items whenever possible. Development of a product, and its associated costs and risks, should be avoided unless necessary to meet FAA needs. If developmental items are required, the need should be documented in the procurement plan.

3.2.1.3.2 Scope of Procurement

The scope of a procurement in terms of complexity, period of performance, dollar value, risk, and other factors should be considered in planning a procurement. As the scope of a procurement increases, the risk of unsuccessful management of the procurement also increases. Appropriate trade-offs should consider elements such as: managing a large complex procurement versus several smaller phased procurements; the systems integration role; total systems responsibility; timing of benefits; technological obsolescence; and other factors.

3.2.1.3.3 Budget Allocation Release

Consideration should be given to releasing contract-related budget information to industry in situations where the procurement involves development or multiple-year funding and is likely to be conducted competitively. If the service organization decides to release the information, the decision should be identified in the procurement plan.

3.2.1.3.4 Quality Assurance

For complex systems or hardware acquisition, the service organization should coordinate with representatives of the Quality Assurance office as soon as procurement requirements are defined, to establish quality assurance requirements for the proposed procurement.

3.2.1.3.5 Labor Relations

When planning procurements, the service organization should comply with applicable FAA labor relations directives.

3.2.1.3.6 Maintaining Competition

Consideration should be given to methods of maintaining competition throughout the lifecycle of any product or service. Methods to be considered may include dual sourcing, obtaining reprocurement data and data rights, open system designs, and any other appropriate methods.

3.2.1.3.7 Single-Source Approval Revised 11/2009

The service organization determines whether the procurement should be conducted on a competitive or single source basis. The rationale for the single source procurement should be included in the implementation strategy and planning document or the procurement plan. If an implementation strategy and planning document is not required and the service organization determines that based on the complexity of the procurement a procurement plan will be established, the procurement plan should include the justification for the single-source decision. Approval of the implementation strategy and planning document or the procurement plan constitutes approval of a single-source procurement; no further approval or documentation is necessary.

3.2.1.3.8 Pre-Release of Documents

Early release of program documents can be an important part of communication with industry. Releasing draft functional requirements, draft specifications, or a draft screening information request (SIR) can be beneficial to industry, as well as the FAA. Early and more complete releases of the SIR and feedback from industry should be part of the market analysis strategy.

3.2.1.3.9 Reserved

3.2.1.3.10 Reserved

3.2.1.3.11 Public Announcements Revised 6/2006

3.2.1.3.11.1 General Revised 3/2016

All procurements anticipated to exceed $150,000 must be publicly announced on the Internet or through other means. This requirement does not apply to noncompetitive awards to SEDB (8(a)) firms and SDVOSB, emergency single source actions, purchases from an established qualified

vendor list (QVL) or FSS, exercise of options, or changes. For actions not anticipated to exceed $150,000, a public announcement is optional if it is not required by 3.2.1.3.12.2.

3.2.1.3.11.2 Procurements Involving Products from Federal Prison Industries Revised 7/2008

All procurements of products available from Federal Prison Industries (FPI) anticipated to exceed $10,000 must be publicly announced on the Internet or through other means, including procurements where FPI products are determined not to be the best value to FAA at the market survey stage. This requirement does not apply to a procurement that satisfies an exception in AMS Policy 3.8.4.2 (concerning procurement of FPI products).

3.2.1.3.12 OMB Circular A-76, Performance of Commercial Activities.

OMB Circular A-76 (Revised), "Performance of Commercial Activities," establishes Federal policy for the competition of commercial activities. Inherently governmental activities are to be performed with Government personnel, but activities identified as not inherently governmental in nature are to be subjected to competition to determine if such activities should continue to be performed by Government personnel. The FAA will follow the policies of the Circular to the extent that such policies are consistent with FAA's statutory authority.

3.2.1.4 Chief Financial Officer Requirements Revised 1/2011

3.2.1.4.1 Contract Line Item Structure Added 1/2011

The Chief Financial Officer Act of 1990 requires FAA to furnish annual financial statements reflecting the assets of the agency to the Office of Management and Budget. To generate information needed for accurate financial statements, service organizations must establish appropriate contract line item structure and billing mechanisms for contracts so the agency can accurately state the value of its assets, and assure related accounting classifications are included on financial documents.

3.2.1.4.2 Chief Financial Officer Approval Added 1/2011

The Chief Financial Officer has approval authority over all proposed procurement actions of $10 million or more.

3.2.1.5 Disaster or Emergency Preparedness and Response Revised 7/2007

3.2.1.5.1 Local Area Set-Asides for Disaster or Emergency Added 7/2007

The Contracting Officer may set-aside procurements for competition among only offerors residing or doing business primarily in a geographic area where the President has declared a major disaster or emergency.

3.2.1.5.2 Continuity of Services-Mission Critical Contracts Added 7/2007

FAA may designate mission critical contracts that require continued contractor performance during times of National Emergency or Incidents of National Significance, such as pandemic influenza. These contracts must include provisions and contractor plans detailing how essential services or supplies will still be adequately delivered.

3.2.2 Source Selection

3.2.2.1 Applicability

Source selection policy and guidance apply to acquisitions for products and services except for real property, utilities, and agreements. There are two competitive procurement methods available for obtaining products and services through the FAA contracting process.

The first method is described under Complex and Noncommercial Source Selection and is used for complex, large dollar, developmental, noncommercial items and services. This is the method that typically would be used for investments approved by the Joint Resources Council.

The second method is described under Commercial and Simplified Purchase Method and, is typically used for commercial items that are less complex, smaller in dollar value, and shorter term. Such products or services may be routine in nature and are generally purchased on a fixed price basis.

3.2.2.2 Policy Revised 10/2015

The FAA procures products and services from sources offering the best value to satisfy FAA's mission needs. Considering complexity, dollar value, and availability of products and services in the marketplace, FAA has flexibility to use any method of procurement deemed appropriate to satisfy FAA's mission.

The FAA provides reasonable access to competition for vendors interested in doing business with FAA. Competition among two or more sources is the preferred method of procurement. When competition is not feasible, procurements may be on a single source basis if there is a documented rational for the decision; documentation for this decision is not required for procurements with a total estimated value of less than $10,000.

Except for those acquisitions set aside for very small business concerns, or those acquisitions being purchased using the agency purchase card, or those acquisitions subject to AMS 3.8.4.2, acquisitions with a total estimated value exceeding $10,000 but not over $150,000 are reserved exclusively for competition among socially and economically disadvantaged business [SEDB/(8(a))] vendors, pursuant to AMS policy 3.6.1.3.4.. If the CO, with review by the cognizant small and disadvantaged business utilization specialist, determines that an SEDB/(8(a)) set-aside is not in FAA’s best interest due to quality, price, or delivery, then the decision must be documented.

The CO must issue a public announcement informing industry of FAA's procurement strategy before, or concurrent with, releasing an initial SIR. Each SIR must contain specific evaluation criteria that FAA will use to evaluate offeror's submittals. When using complex and noncommercial source selection methods, FAA must include past performance as an evaluation factor. If appropriate, FAA may use process capability of suppliers as an evaluation factor according to established criteria. Cost or price considerations must be an evaluation factor in all final selection decisions. Any request for offer (RFO) must include a requirement for a formal cost or price proposal. The source evaluation team must document the findings of the evaluation. The source selection official (SSO) must base all selection or screening decisions on evaluation criteria established in each SIR. The CO must conduct debriefings with all offerors that request them.

Responsible contractors only may receive awards. To be determined responsible, a prospective contractor:

- Has or can obtain adequate financial resources to perform a contract;
- Has the ability to meet any required or proposed delivery schedules;
- Has a satisfactory performance history;
- Has a satisfactory record of integrity and proper business ethics;
- Has appropriate accounting and operational controls that may include, but are not limited to: production control, property control systems, quality assurance programs, and appropriate safety programs; and
- Is qualified and eligible to receive an award under applicable laws or regulations.

The CO's signing of the contract constitutes a determination that the prospective contractor is responsible with respect to that contract. When an offer is rejected because the prospective contractor is non-responsible, the CO must make a determination of non-responsibility. The CO has broad discretion in making this determination.

3.2.2.3 Complex and Noncommercial Source Selection

This section establishes the FAA's policy for evaluating and selecting sources for the award of complex, noncommercial competitive contracts. This process consists of up to five distinct phases, with the screening phase being the cornerstone. The five phases are:

- Planning;
- Screening;
- Selection;
- Debriefing (as requested); and
- Lessons learned.

3.2.2.3.1 Selection Phases

3.2.2.3.1.1 Planning

Refer to the procurement planning section for further guidance.

3.2.2.3.1.2 Screening

Screening is the process by which the FAA will determine which offeror provides the best value to the FAA. The process is flexible and allows selection and award after one screening request. This process allows the FAA to make an award considering only price and the price-related factors included in the SIR. The number of distinct screening steps for a particular procurement will vary, based on the complexity of the procurement. Provided below is guidance associated with the screening phase.

3.2.2.3.1.2.1 Screening Information Request Revised 7/2007

The purpose of the SIR is to obtain information, which will ultimately allow the FAA to identify the offeror that provides the best value, make a selection decision, and award the contract to conclude the competitive process. A SIR is a request by the FAA for documentation, information, presentations, proposals, or binding offers. Three categories of SIRs (see below) may be used according to the procurement strategy adopted by the service organization. Once the public announcement has been released, the SIR may be released to start the competitive process. The service organization will determine the type(s) of SIR(s) that are appropriate for each procurement.

For a given procurement, the FAA may make a selection decision after one SIR, or the FAA may have a series of SIRs (with a screening decision after each one) to arrive at the selection decision. This will depend on the types of products and services to be acquired and the specific source selection approach chosen by the service organization. When it is desired to make a selection decision after one SIR, that SIR should be a request for offer (see below). In general when multiple SIRs are contemplated, the initial SIR should request general information, and future SIRs should request successively more specific information.

Initial SIRs need not state firm requirements, thus allowing the FAA to convey its needs to offerors in the form of desired features, or other appropriate means. However, firm requirements ultimately will be established in all contracts.

Each SIR should contain the following information:

- Paper Reduction Act number OMB No. 2120-0595 on the cover page.
- A statement identifying the purpose of the SIR (request for information, request for offer, establishment of a QVL and screening).
- A definition of need,
- A request for specific information (with specific page and time limitations, if applicable),
- A closing date stating when submittals must be received in order to be considered or evaluated,
- Evaluation criteria (and relative importance, if applicable),
- A statement informing offerors how communications with them will be conducted during the screening, and

- An evaluation/procurement schedule (including revisions, as required).

The evaluation/procurement schedule should be realistic and should alert the offerors to the fact that the FAA plans to adhere to its schedule and that offerors interested in award will be expected to adhere to this schedule.

There are three categories of SIRs: qualification information, screening information, and request for offers. Each category of SIR is discussed in detail below.

Qualification Information

Qualification information, used to qualify vendors and establish qualified vendor lists (QVLs), should be requested only if it is intended that the resultant QVL will be used for multiple FAA procurements.

Qualification information screens for those vendors that meet the FAA's stated minimum capabilities/requirements to be qualified to provide a given product or service. All vendors that meet the FAA's qualification requirements will be listed on the appropriate QVL for the stated products or services.

Requested qualification information (including equipment/products) should be tailored to solicit the information that will allow the FAA to determine which of the vendors meet the FAA's minimum qualification requirements for the required products or services. For products, the information required to make such a determination might be equipment/products for FAA testing, vendor testing, testing data, product documentation, and production capability. For services, the information required to make such a determination might be a capabilities statement and performance experience. For software-intensive products or services, the information required to make such a determination might include descriptions about the offeror's software development and maintenance processes, in addition to other general information suggested above for products or services.

Once qualification information is requested, received, and evaluated in accordance with the evaluation plan, a QVL will be established for the given product/service. Once such a list is established, only qualified vendors may compete for the products or services. Where a product available from Federal Prison Industries (FPI) is to be acquired via a QVL, any such acquisition must include FPI and follow the procedures set forth at T 3.8.4.A.4 unless the acquisition satisfies an exception in AMS 3.8.4.2. Public announcement is not required once the QVL is established. This list can be updated at the FAA's discretion. Each list should be reviewed regularly to determine whether it should be updated.

Screening Information

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

The following are examples of the types of information that may form the basis of a screening request:

- Equipment/products for FAA testing,
- Vendor testing,
- Testing data,
- Technical documentation (commercial, if available/practicable),
- Capability statements,
- Quality assurance information,
- Performance experience,
- Sample problems,
- Draft/model contracts,
- Technical proposals (including oral presentations, if appropriate/practicable),
- Commercial pricing information,
- Financial condition information,
- Cost or price information, and
- Cost or price proposals.

Request for Offer

A request for offer is a request for an offeror to formally commit to provide the products or services required by the acquisition under stated terms and conditions. The response to the request for offer is a *binding offer*, which is intended to become a binding contract if/when it is signed by the CO. The request for offer may take the form of a SIR, a proposed contract, or a purchase order.

3.2.2.3.1.2.2 Communications with Offerors

Communications with all potential offerors should take place throughout the source selection process. During the screening, selection, and debriefing phases of source selection, communications are coordinated with the CO. Communications may start in the planning phase and continue through contract award. All SIRs should clearly inform offerors how communications will be handled during the initial screening phase.

The purpose of communications is to ensure there are mutual understandings between the FAA and the offerors about all aspects of the procurement, including the offerors' submittals/ proposals. Information disclosed as a result of oral or written communication with an offeror may be considered in the evaluation of an offeror's submittal(s).

To ensure that offerors fully understand the intent of the SIR (and the FAA's needs stated therein), the FAA may hold a pre-submittal conference and/or one-on-one meetings with individual offerors. One-on-one communications may continue throughout the process, as required, at the discretion of the service organization. Communications with one offeror do not necessitate communications with other offerors, since communications will be offeror-specific. Regardless of the varying level of communications with individual offerors, the CO should ensure that such communications do not afford any offeror an unfair competitive advantage. During these and future communications, as applicable, the FAA should encourage offerors to provide suggestions about all aspects of the procurement.

Communications may necessitate changes in the FAA's requirements or screening information request and such changes should be processed consistent with Section 3.2.2.3.1.2.4. Where communications do not result in any changes in the FAA's requirements, the FAA is not required to request or accept offeror revisions. The use of technical transfusion is always prohibited. Technical leveling, and auctioning techniques are prohibited, except in the use of commercial competition techniques as described in Section 3.2.2.5.3.

3.2.2.3.1.2.3 Receipt/Evaluation of Submittals

Once offerors have submitted responses to a SIR, the service organization will evaluate the submittals in accordance with the evaluation criteria stated therein and the evaluation plan. To be considered for an award, an offeror must submit a response to the initial SIR, within the time specified in the SIR.

Evaluation Criteria

The evaluation criteria form the basis on which each offeror's submissions are to be evaluated. Once the criteria have been established and disclosed to offerors, criteria should not be modified without first notifying offerors competing at that stage of the process and allowing such offerors to revise their submissions accordingly. Each SIR shall contain the specific evaluation criteria to be used to evaluate offeror submittals for that specific SIR. Evaluation criteria should be tailored to the characteristics of a particular requirement and should be limited to only the key discriminators in the ultimate selection decision. The criteria should avoid, whenever possible, the inclusion of detailed sub-criteria (or sub-criteria in general). Further, efforts should be made to ensure that there are no overlapping criteria. Initial SIRs do not require cost or price proposals but should require submission of more generalized cost or price estimates. Cost or price considerations shall be an evaluation factor in all selection decision(s). For software acquisitions the criteria should include, whenever appropriate, an evaluation of the maturity of the offeror's software acquisition, development and maintenance processes that are relevant to the procurement. Such evaluations should be performed using standardized instruments such as a Capability-Maturity-Model-based Evaluation.

Evaluation Plan

An evaluation plan shall be prepared by the service organization and approved by the SSO for all procurements accomplished under this section. Evaluation plans should be concise and tailored to the specific needs of the procurement. The evaluation plan should include the name of the SSO and the names of the service organization members and evaluators, the evaluation criteria, the evaluation methods and processes, the schedule, and any other information related to the source selection. The evaluation plan should be completed and approved prior to the receipt of responses to any SIR requesting screening or qualification information.

Evaluation Method

The evaluation methodology should be set up to allow for maximum flexibility in selecting the offeror(s) providing the best value. To facilitate such flexibility, the following should be considered in setting up evaluations:

- Relative importance between criteria is not required (when relative importance is used, the relative order of importance between criteria should be disclosed).
- Each SIR may incorporate separate and/or distinct criteria that relate to the specific SIR discriminators.
- The use of either adjectival or numerical ratings is acceptable.
- Comparative evaluations between offerors' proposals/products are acceptable.
- The service organization should be selective/inventive concerning the screening requirements for document submissions (e.g., oral presentations, sample tests, plant visits, etc.).
- Communications with offerors during the evaluation may help clarify submittals, allow a fuller understanding of the offeror submittals, and provide a more comprehensive evaluation.
- Testing of products is encouraged to the maximum extent practical ("try before you buy").
- Award based on initial offers to other than the low cost or price offer is allowed.

Evaluation Process

The evaluation will be conducted by the service organization, in accordance with the stated evaluation criteria and evaluation plan. The service organization (including any additional required evaluators and/or advisors) should be limited in size and dedicated through the completion of the acquisition. The service organization is expected to apply sound judgment in determining appropriate variations and adaptations necessary for individual situations, provided that these do not constitute a departure from the basic concepts and intent of the evaluation plan and SIR(s).

Communications may be considered in the evaluation of an offeror's submittal(s). Verifiable information from outside sources may be considered in the evaluation and should be disclosed to the offeror during the communication process. Any such findings should be noted in the evaluation report.

Evaluation Report

The service organization shall document the results of the evaluation, including recommendations, if applicable.

3.2.2.3.1.2.4 Changes in Requirements

If, after release of a SIR, it is determined that there has been a change in the FAA's requirement(s), all offerors competing at that stage should be advised of the change(s) and afforded an opportunity to update their submittals accordingly.

The SSO has authority to waive a requirement at any time after release of a SIR, without notifying other offerors where the SIR states that offeror specific waiver requests will be considered, and the waiver does not affect a significant requirement that changes the essential character or conditions of the procurement.

All determinations relating to changes in requirements, including waivers, will be documented in

the evaluation report.

3.2.2.3.1.2.5 SSO Decision

Based on a review of the service organization's evaluation report, the SSO may either:

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

To ensure the integrity of the FAA competitive source selection process, all SSO decisions should be based on the evaluation criteria established in the SIR and have a rational basis. All offerors who are eliminated from the competition based on any screening decision should be provided with the basis for their elimination within five working days after the screening decision and should be informed that they may request a debriefing after contract award. During the screening process, the SSO may decide to eliminate an offeror from further consideration without considering the cost or pricing information that was submitted in the response to the SIR. However, the final selection decision must consider the cost or price information that was submitted as part of the proposal.

If a screening decision, rather than a selection decision, is made, the service organization should issue another SIR (and repeat the screening process stated above) in order to make a selection decision (or another screening decision) among the remaining offerors. The screening process, starting at the issuance of the SIR, may be repeated until a selection decision is made or the procurement is canceled. In some circumstances it may be appropriate to down-select to one offeror for negotiation. However, if the FAA and the selected offeror cannot come to an agreement, the FAA may select another competing offeror for communications/award without issuance of further SIRs.

3.2.2.3.1.3 Selection Revised 10/2012

The selection decision must be based on the stated evaluation criteria including cost or price considerations to identify the best value.

The service organization must brief the SSO on their evaluation findings. The selection of the offeror who is expected to provide the best value solution is a matter committed to the discretion of the SSO. The SSO applies sound business judgment to the evaluation of the offeror's proposed solution against the stated evaluation criteria. In each case, the SSO should provide a rational basis for the screening or selection decision. The SSO should document the selection decision in the SSO decision memorandum (in cases where the CO and the Contracting Officer’s Representative are the only service organization members, the evaluation report and the SSO decision memorandum may be one report). In making the selection decision, the SSO may accept or reject the service organization's recommendations provided there is a rational basis.

Based on the SSO's decision, the CO will transmit a proposed contract to the selected offeror.

The selected offeror will return a properly executed contract. Upon the CO's signature, the proposed contract becomes a binding contract.

3.2.2.3.1.4 Debriefing

Once an award has been made, all offerors who participated in the competitive process will be notified of the award and given three working days from receipt of the award notification to request a debriefing. Debriefings are intended to provide meaningful feedback to offerors on their submission. The purpose of the debriefing is to improve the offeror's ability to successfully compete for future FAA business by discussing the strengths and weaknesses of the offeror's submissions. The debriefing should provide the offeror with the following information:

- SSO's Selection Decision;
- Offeror's evaluated standings relative to the successful offeror(s); and
- Summary of the evaluation findings (excerpts from evaluation summary documentation relating to the specific offeror).

The CO should request detailed questions from the unsuccessful offeror so the FAA can provide meaningful information during the debriefing. Debriefings should be conducted, as soon as practicable, with all offerors that request them.

3.2.2.3.1.5 Lessons Learned

A lessons learned memorandum is a valuable tool in which the service organization can relay its procurement experiences to other FAA acquisition personnel. Once an award has been made, the service organization should communicate its learning experiences. The communication should highlight those issues/processes that had significant impact on their procurement. Further, the service organization should discuss changes that could be made to ensure a more comprehensive evaluation and/or more timely award.

3.2.2.3.2 Reserved

3.2.2.3.2.1 Reserved

3.2.2.3.2.2 Reserved

3.2.2.3.2.3 Reserved

3.2.2.3.2.4 Reserved

3.2.2.3.2.5 Reserved

3.2.2.3.2.6 Reserved

3.2.2.4 Single-Source Selection Revised 1/2015

The FAA may contract with a single-source when in FAA's best interest and the rational basis for the decision is documented. This rational basis may be based on actions necessary and important to support FAA's mission, such as emergencies, standardization, and only source available to satisfy a requirement within the time required. For procurements not anticipated to exceed $10,000, there is no requirement for competition or single-source justification; requirements must not be split to meet this exception. This section 3.2.2.4 is not applicable to noncompetitive awards made to socially and economically disadvantaged businesses (SEDB)/(8(a)) or service-disabled veteran owned small businesses (SDVOSB), both of which are governed under AMS policy 3.6.

The decision to contract with a single-source may be made as part of overall program planning. The rational basis must be documented and approved as a part of program planning in the Implementation Strategy and Planning Document, a procurement plan, or as a separate document. If an Implementation Strategy and Planning Document is not required and the service organization determines that a procurement plan is unnecessary, a separate single-source justification must be documented and endorsed by the service organization and approved by the CO.

Market analysis should be conducted to support each single-source decision, except for emergencies. The method and extent of the analysis depends on the requirement.

The CO must document the objective criteria supporting the rational basis for the decision in writing. Examples of information that might be documented include results of market analysis, cost or price data, unique qualifications or performance capability, and past performance. Mere conclusions, without adequate objective supporting data, are insufficient.

After the decision to contract with a single source has been approved, a public announcement must be made for any action over $100,000, except in emergencies. The purpose of the announcement is to inform industry about the basis for the decision to contract with the single source.

A basic contract may be modified to exercise an option, or to satisfy a follow-on procurement for more of the same products or services without seeking additional competition when, based on market analysis, there is a rational basis not to compete the requirement and the rational basis is documented and approved as discussed in this subsection.

The Contracting Officer must justify and document in accordance with this Section any increase in ceiling price of a time-and-materials or labor-hour contract.

3.2.2.4.1 Single-Source Procurement Process

The single-source procurement process includes planning, communications, award, and lessons learned. The actions for an individual phase within the process may vary depending on the particular circumstances.

3.2.2.4.1.1 Emergencies

An emergency situation, including but not limited to a threat to loss of life or property, national security, or restoration of an air traffic control facility, may require immediate contracting with a single source. In these instances, once funds are committed, the CO may verbally authorize a contractor to proceed and may combine single source phases or complete activities after the fact. As a minimum and as soon as practical, the CO should:

- Obtain funding certification;
- Document the single source decision; and
- Confirm authorization with written notification

3.2.2.4.1.2 Non-emergencies Revised 10/2008

For single-source non-emergency procurements, planning may include:

- Analyzing the market to determine potential sources;
- Developing an independent FAA cost estimate for any anticipated procurement action (to include modifications) whose total estimated value is $100,000 or more, if not exempted by AMS 3.2.1.2.4;
- Obtaining funding certification;
- Obtaining approval of rationale for single source, except for follow-on or exercise of options; and
- Issuing public announcement, if in excess of $100,000.

3.2.2.4.1.3 Lessons Learned

Communicating lessons learned is encouraged.

3.2.2.5 Commercial and Simplified Purchase Method Revised 6/2006

The FAA may acquire commercial products and services from the competitive market place by using the simplified purchase method described herein and best commercial practices. Commercial and simplified purchases are used for commercial items or for products or services that have been sold at established catalog or market prices and are generally purchased on a fixed-price basis. However, procurement of products available for purchase from Federal Prison Industries is governed by AMS 3.8.4.2.

3.2.2.5.1 Planning

Procurement planning should be accomplished for all simplified and commercial purchases. The level of planning and announcement should be dictated by the nature and complexity of the requirement, commercial availability, dollar value, urgency of the requirement, and degree of previous procurement history.

The purpose of procurement planning is to:

- Determine whether commercial items meet the FAA's needs;
- Identify potential commercial sources; and
- Publicly announce requirements in excess of $100,000.

Market analysis should be simple and straightforward, and may include information based on personal knowledge of the market, historical purchase information, qualified vendors list, commercial catalogs, trade journals, newspapers, other professional publications or local telephone directories.

Contracting mechanisms are at the discretion of the CO. Purchases may also be made using the following mechanisms:

- Purchase card;
- Purchase card checks;
- Purchase order;
- Contract;
- Orally (only in emergency situations) with proper documents processed as soon as possible following the oral order; and
- Other methods, including interagency agreements, when deemed appropriate and properly documented.

3.2.2.5.2 Sourcing Determination

The CO should solicit an appropriate number of vendors to ensure quality products and services are delivered in a timely manner at a fair and reasonable price. Requirements should be stated in commercial terms generally understood and accepted in the industry.

3.2.2.5.3 Screening

The CO should determine the appropriate screening approach and format for vendor's responses (e.g., electronic, written, oral, use of standard commercial or FAA forms). The CO may also conduct communications with individual offerors, as appropriate, to address offeror understanding of the requirement, performance capability, prices, and other terms and conditions. For commercially available products, the CO is encouraged to use "commercial competition techniques" such as continuing market research throughout the process by using vendor proposals as the source of prices and commercially available capabilities and sharing that information with other vendors.

3.2.2.5.4 Selection Decision and Award

The CO's selection decision should be based on the FAA's stated evaluation criteria. The selection decision for commercial or simplified purchases should be based on the best value to the FAA including, but not limited to, factors such as price, functional specifications, delivery capability, warranty, and payment terms. This may be accomplished through establishing specific evaluation criteria with an accompanying evaluation plan as described under Complex, Noncommercial Source Selection, and making the selection based on the stated criterion. It may

also be based on the most favorable solution available in the commercial market, as determined by the FAA, as described under Commercial and Simplified Purchase Method, or through a combination of methods depending on complexity, risk, dollar value, and urgency of the requirement.

3.2.2.5.4.1 Documentation

The method of selection and rationale for awards, and a determination that the price is fair and reasonable should be documented. The extent of the documentation depends on the complexity and dollar value of the procurement action.

3.2.2.5.5 Micro-Purchase Threshold Revised 1/2016

Simplified purchases with a total estimated potential value (TEPV) under the micro-purchase threshold must be performed using the purchase card. The micro-purchase threshold is $10,000 for commercial supplies; $2,000 for construction; and $2,500 for services.

3.2.2.6 Unsolicited Proposals

3.2.2.6.1 Policy Added 10/2008

The FAA may consider and accept unsolicited proposals when in the best interest of FAA. Unsolicited proposals are a valuable means for FAA to obtain innovative or unique methods or approaches to accomplishing its mission from sources outside FAA. Advertising material, commercial item offers, contributions, or technical correspondence are not considered to be unsolicited proposals. A valid unsolicited proposal must:

- Be innovative and unique;
- Be independently originated and developed by the offeror;
- Be prepared without FAA supervision;
- Include sufficient detail to permit a determination that the proposed work could benefit FAA's research and development, or other mission responsibilities; and
- Not be an advance proposal for a known FAA requirement that can be acquired by competitive methods.

3.2.2.6.2 Receipt and Initial Review Revised 10/2008

Unsolicited proposals should be addressed to:

Federal Aviation Administration
Acquisition Policy and Oversight
Acquisition Policy Group (AAP-100)
Attn.: Unsolicited Proposal Coordinator
800 Independence Avenue SW, Room 439W

Washington, DC 20591

Once received, the FAA unsolicited proposal coordinator will review and determine if the document(s) meets the requirements of an unsolicited proposal.

3.2.2.6.3 Prohibitions Added 10/2008

FAA personnel should not use any data, concept, idea, or other part of an unsolicited proposal as the basis, or part of the basis, for a SIR or in communications with any other firm unless the offeror is notified of and agrees to the intended use. However, this prohibition does not preclude using any data, concept, or idea available to FAA from other sources without restrictions.

FAA personnel must not disclose restrictively marked information included in an unsolicited proposal. 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.

3.2.2.7 Contractor Qualifications

3.2.2.7.1 Applicability

This section applies to all contracts and to all proposed contracts with any prospective contractor that is located in the United States, its possessions, or Puerto Rico; or elsewhere, unless application would be inconsistent with the laws or customs where the contractor is located.

3.2.2.7.2 Contractor Responsibility

The CO shall ensure that contracts are awarded only to responsible contractors (see Section 3.2.2.2). No award shall be made unless the CO makes an affirmative determination of responsibility.

3.2.2.7.3 Contractor Team Arrangements

FAA will recognize the validity of contractor team arrangements, provided, the arrangements and company relationships are fully disclosed in an offer, or for arrangements entered into after submission of an offer, before the arrangement becomes effective.

3.2.2.7.4 Suspension and Debarment

FAA may suspend or debar contractors for cause. FAA will honor suspension, debarment, and ineligibility decisions of other agencies unless FAA has a compelling need to obtain the requirement from that contractor.

3.2.2.8 Describing FAA Needs

3.2.2.8.1 Applicability

The requirements herein apply to all FAA procurements and agreements except real property and utilities.

3.2.2.8.2 Policy

The FAA will describe its needs clearly and generally in writing, absent special or emergency circumstances. Service organizations may describe needs as minimum requirements, goals, or in another form well suited to the contemplated procurement.

3.2.2.9 Rehabilitation Act

The FAA shall comply with Section 508 of the Rehabilitation Act of 1973 in developing, procuring, maintaining or using electronic and information technology. Section 508 of the Rehabilitation Act of 1973 applies to all new procurements after June 21, 2001.

3.2.3 Pricing Methodology, Principles and Standards Revised 10/2011

3.2.3.1 Applicability Revised 10/2011

This section applies to pre- and post award pricing and analysis for contracts, subcontracts, orders, and modifications, excluding real property and utilities.

3.2.3.2 Cost and Price Analysis Revised 1/2016

The CO must make a determination that prices are fair and reasonable based on price analysis and, if necessary, cost analysis. Price analysis is the review of price without evaluating separate cost elements and profit/fee, and is required for all pricing actions. Cost analysis is the review of the individual cost elements and profit. Price analysis is the preferred method for evaluating competitive proposals. If the CO determines price competition is not adequate to support a determination of price reasonableness, the CO must require offerors to submit either certified cost or pricing data or information other than certified cost or pricing data. When the CO determines adequate price competition exists, certified cost or pricing data must not be requested. In situations with established catalog or market prices, prices set by law or regulation, or commercial items, price analysis is sufficient and the CO must not request cost data.

3.2.3.3 Pre- and Post Award Audits Revised 1/2012

The CO must request pre-award and post-award audits on all cost reimbursement contracts exceeding $100 million. In addition, FAA will request pre-award and post-award audits on at least 15% of all cost reimbursement contracts not anticipated to exceed $100 million. For other contract types, the CO may use any method of cost or price analysis to

determine fair and reasonable prices.

Pre-award audits and post-award incurred cost audits are the preferred mechanism to assist the CO in ensuring valid indirect and direct costs are billed under cost reimbursement contracts. The CO is responsible for ensuring indirect and direct costs under a cost reimbursement contract are allowable. In situations where an incurred cost audit is not obtained, the CO will still ensure that only allowable costs are paid.

The sponsoring service organization will fund required pre- and post- award audits and must include an estimate of the cost of audits in the Acquisition Program Baseline; the Implementation Strategy and Planning Document will describe the approach, responsible organizations, and activities for obtaining audits.

3.2.3.4 FAA Cost Principles Added 10/2011

The FAA contract cost principles, as described in AMS Procurement Guidance, must be used to price contracts, subcontracts, orders, and modifications whenever cost analysis is performed. Cost principles must also be used for determining, negotiating, or allowing costs when required by a contract clause. The CO must incorporate FAA cost principles in contracts with commercial organizations as the basis for:

- Determining reimbursable costs under (a) cost-reimbursement contracts and cost-reimbursement subcontracts under these contracts performed by commercial organizations and (b) the cost-reimbursement portion of time-and-materials contracts except when material is priced on a basis other than at cost;
- Negotiating indirect cost rates, when FAA has division or corporate contract administration responsibilities, quick close-out procedures are used, or indirect rate caps are negotiated in the contract;
- Proposing, negotiating, or determining costs under terminated contracts;
- Price revision of fixed-price incentive contracts;
- Price re-determination of price re-determination contracts; and
- Pricing changes and other contract modifications.

When another Government agency has division or corporate contract administration responsibilities, FAA may agree to cost principles of the administering agency to determine or negotiate indirect rates not covered by (a) or (b) above.

3.2.3.5 Cost Accounting Standards Added 10/2011

All contractors and subcontractors must use Cost Accounting Standards (CAS) according to 48 CFR Part 99 for estimating, accumulating, and reporting costs in connection with pricing, administering, and settling disputes concerning all negotiated prime and subcontract procurements over $700,000, except for contracts or subcontracts exempted by these regulations. The following categories of contracts and subcontracts are exempt from all CAS requirements:

- Negotiated contracts and subcontracts of $700,000 or less. For purposes of this

paragraph, an order issued by one segment to another segment must be treated as a subcontract;

- Contracts and subcontracts with small businesses;
- Contracts and subcontracts with foreign governments or their agents or instrumentalities or (insofar as the requirements of CAS other than 9904.401 and 99.402 are concerned) any contract or subcontract awarded to a foreign concern;
- Contracts and subcontracts in which the price is set by law or regulation;
- Firm fixed-priced and fixed-price with economic price adjustment (provided that price adjustment is not based on actual costs incurred), time-and-materials and labor-hour contracts and subcontracts for acquisition of commercial items;
- Contracts or subcontracts of less than $7.5 million, provided that, at the time of award, the business unit of the contractor or subcontractor is not currently performing any CAS-covered contracts or subcontracts valued at $7.5 million or greater;
- Contracts and subcontracts to be executed and performed entirely outside the United States, its territories, and possessions; and
- Firm fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of cost or pricing data.

3.2.4 Types of Contracts

3.2.4.1 Applicability

This section is applicable to contracts for procurement of all products and services.

3.2.4.2 Policy

Contracts may be of any type or combination of types except for cost plus a percentage of cost contracts, which are prohibited. The use of fixed-price contracts is strongly encouraged whenever appropriate. Development contracts may be incrementally phased fixed-price contracts. All contracts, except those issued in emergency situations, shall be in writing.

3.2.4.3 Guidance and Principles

The types of contracts that may be used for FAA procurements are included in the toolbox. Types of contracts other than those specified in the toolbox may be used when approval has been obtained from an official one level above the CO within the contracting organization.

Contracting officers should clearly identify the type of contract(s) at the front of each contract and in SIRs, when appropriate. Where multiple types of contracts are used in one contract, performance requirements, terms and conditions, and prices (or estimated cost and fee) for each type of contract should be clearly separated and partitioned.

The multi-year contract may be used for the acquisition of products and services in accordance with any applicable restrictions and appropriate appropriations acts.

3.2.5 Contractor Ethical Guidelines

3.2.5.1 Applicability

This policy is applicable to all contracts.

3.2.5.2 Policy

FAA business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none.

3.2.6 Purchase Card Program Added 1/2009

3.2.6.1 Applicability Added 1/2009

Purchase card policy and corresponding guidance apply only to actions conducted through the FAA purchase card program.

3.2.6.2 Policy Added 1/2009

All procurements using an FAA purchase card must be conducted according to applicable laws, regulations, and FAA policy. AMS procurement guidance for purchase cards establishes standards for competition and source selection that supersedes other applicable AMS policy and guidance.

3.2.7 Anti-Counterfeit Management Added 4/2014

3.2.7.1 Applicability Added 4/2014

Anti-Counterfeit policy and non-conforming parts requirements are applicable to (1) contracts over $50M; (2) construction contracts for NAS applications over $2M; and (3) office equipment and/or supplies for NAS applications over $2M.

3.2.7.2 Suspected Counterfeit and Non-Conforming Parts Added 4/2014

Anti-Counterfeit policy, guidance and procedures apply to securing the FAA equipment supply chain from counterfeit and non-conforming parts.

The CO must ensure that instruction to contractors result in the most efficient and economical way to mitigate the entry of suspected counterfeit and non-conforming parts in the FAA supply chain by:

- Not knowingly procuring suspected counterfeit and non-conforming parts.

- Documenting all occurrences of suspected and confirmed counterfeit parts in the appropriate reporting system, including the Government-Industry Data Exchange Program (GIDEP).
- Making information about counterfeiting accessible at all levels of the FAA supply chain as a method to prevent further counterfeiting.
- Notifying the appropriate FAA investigative organization, or US Government intelligence authorities, and those who use the suspected and confirmed counterfeit parts, of incidents at the earliest opportunity.