



U.S. General Services Administration

Federal Acquisition Service

Integrated Technology Services

Fair Opportunity

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“Fair Opportunity” Definition

Fair Opportunity process is mandated by United States Code (USC) § 253 and implemented in FAR Section 16.505

FAR 16.505(b) states:

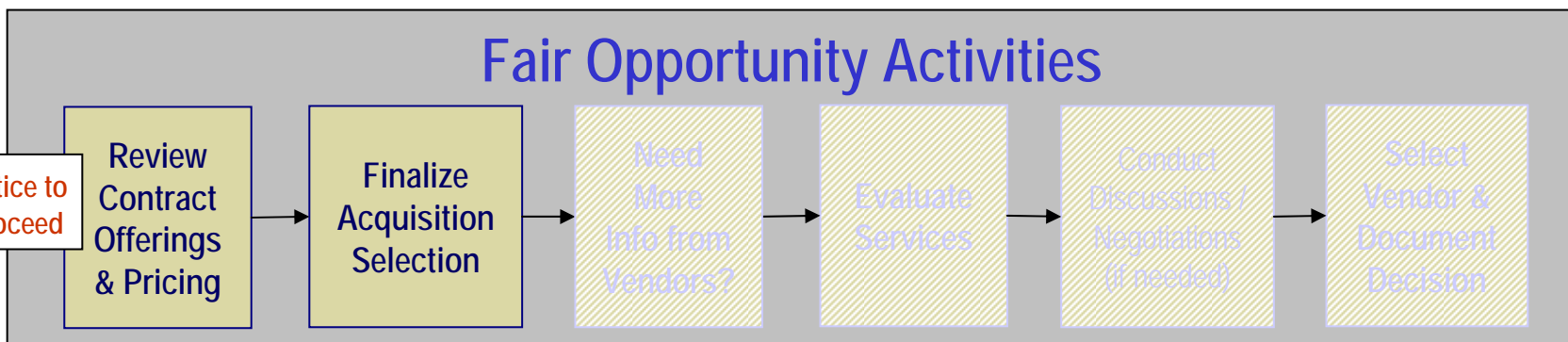
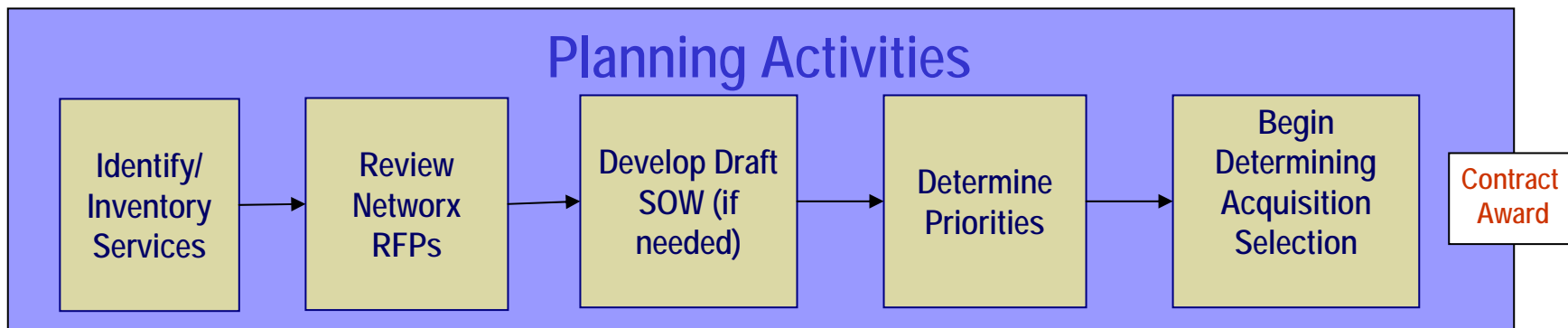
“The contracting officer must provide each awardee a fair opportunity to be considered for each order exceeding \$3,000 issued under multiple delivery-order contracts or multiple task-order contracts, except as provided for in paragraph (b)(2) of this section.” and “The contracting officer may exercise broad discretion in developing appropriate order placement procedures.”

Relative to Networx, Fair Opportunity will be done at the Agency level with guidance from the contract, GSA and any Agency regulations.

Roles and Responsibilities

| GSA | Agency | Agency Contracting Officer | Network Vendor |
|--|--|---|--|
| <ul style="list-style-type: none">• Award and Administer Contracts, including processing contract modifications• Provide general procedural guidance• Communicate policy/regulatory requirements to Agencies | <ul style="list-style-type: none">• Group requirements• Establish selection criteria• Designate Agency Vendor Selection team, including Contracting Officer• Establish fair opportunity compliance plan• Select acquisition vehicle(s) | <ul style="list-style-type: none">• Develop procedures to allow for fair opportunity• Lead negotiations with offerors during evaluation• Adhere to FAR & Agency requirements• Execute Fair Opportunity vendor selection process• Notify GSA of the decision | <ul style="list-style-type: none">• Provide quality proposals in compliance with Contract and SOW and within timeframes requested• Provide all information necessary for Agency's fair opportunity decision |

Agency Vendor Selection



- Activities Overseen by Agency Transition Manager
- Activities Overseen by Agency Contracting Officer

Agency Planning Activities

- Agencies determine if they will use more than one grouping
 - But only one selection per grouping of requirements
- If more than one grouping, Agencies determine how to group the requirements
 - Projects or Bulk Order (see definition on next slide)
 - Service type (i.e. all voice services, or all managed network services)
 - Agency organization, Sub-agency , Geographic Region or Mission
 - In accordance with funding lines
 - Primary or back-up services
- Agencies select the acquisition to use that best fulfills each requirement set (either Networx Universal or Enterprise, not both)

Network Definitions

- Bulk Order - Multiple orders placed simultaneously for same service at same location from a single ordering Agency
- Project - As designated by the Agency, all services and activities to be managed as a Project
 - For Transition, examples include data services, switched services, all services
 - For other orders, examples are multiple sites or complex or mission-critical requirements; may include adding multiple services at a single location, adding new services to multiple locations, implementing a private network, or migrating from an existing contract other than FTS; any orders for which the routine service delivery process will not adequately address the special requirements for coordinating activation of service

Agency Planning Activities – cont.

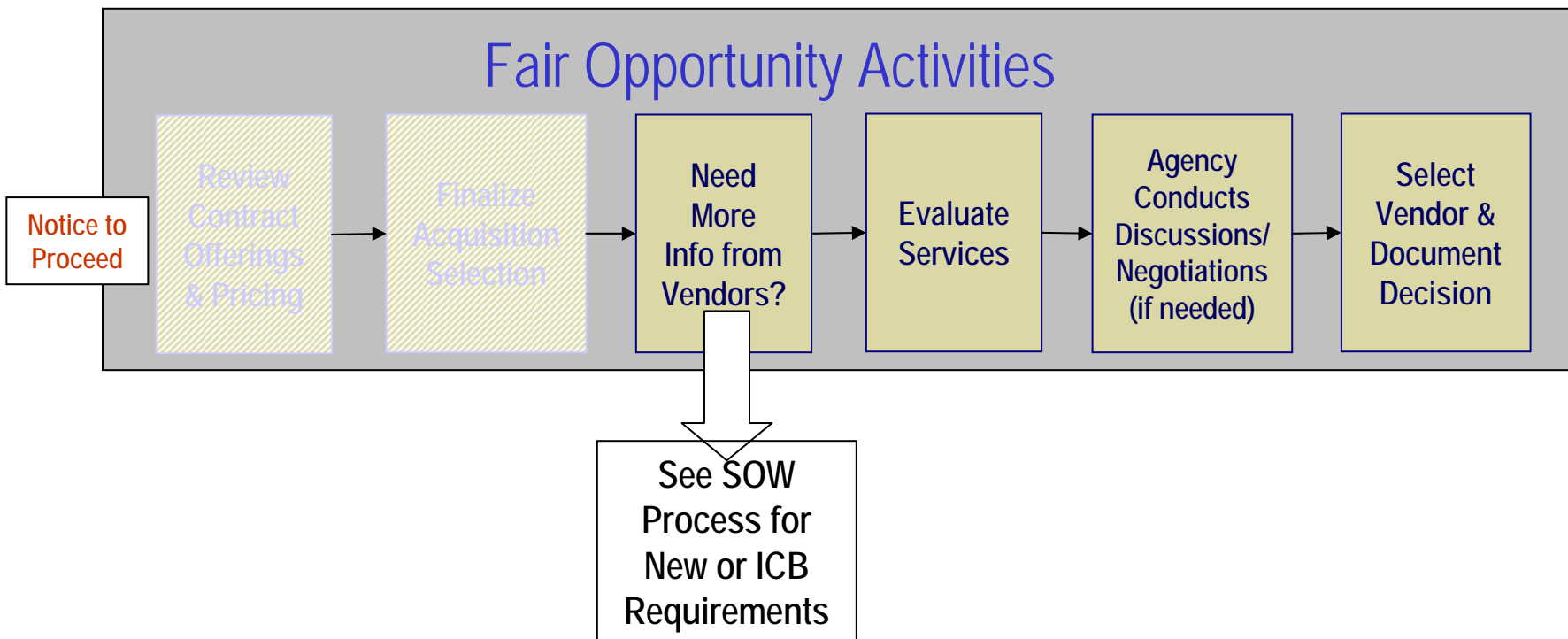
- Agencies should be framing their requirements
 - Review RFPs to understand the services available under Networx
 - Drafting any Statements of Work, selection criteria
- Agencies should identify appropriate personnel to handle the vendor selection activities as soon as possible, including CO, program personnel, budget personnel and legal support
- Agencies should develop a timeline of events pertaining to Agency Vendor Selection
 - Reminder: Make selections for transitioning services within IMC-prescribed period to be eligible for transition credits

Fair Opportunity

Fair Opportunity requires that the Contracting Officer:

- Develop procedures to ensure all vendors within a specific acquisition have fair opportunity to be considered for each order
- Avoid methods such as allocation or designation of preferred awardees
- Tailor the process to the requirements
- Include price or cost as one of the evaluation factors
 - The fair opportunity should be based the full contract price, including NRCs, MRCs for the entire term, and any ICBs definitized,
 - Items reimbursed by GSA are to be included, i.e., transition costs paid by GSA

Vendor Selection - Fair Opportunity



Fair Opportunity Decision

- Other than price or cost, Agency may use other factors including technical, management, past performance, availability of vendor's OSS for order processing
- Agency will select one contractor for a group of requirements
 - May select different contractors for different groups of requirements
 - May not select multiple contractors for same requirement
- Agency CO to document each fair opportunity decision for its files and send notice of selection to GSA
 - Should include information about what is covered by fair opportunity decision and what is a logical follow-on to provide guidance for DARs

Additional Fair Opportunity Decisions

- Required for services not contemplated in original decision, hence Agency COs must document decisions carefully
- Agencies may conduct subsequent fair opportunity decisions on existing services to obtain better prices, updated technology, better performance or greater value

Fair Opportunity Exceptions

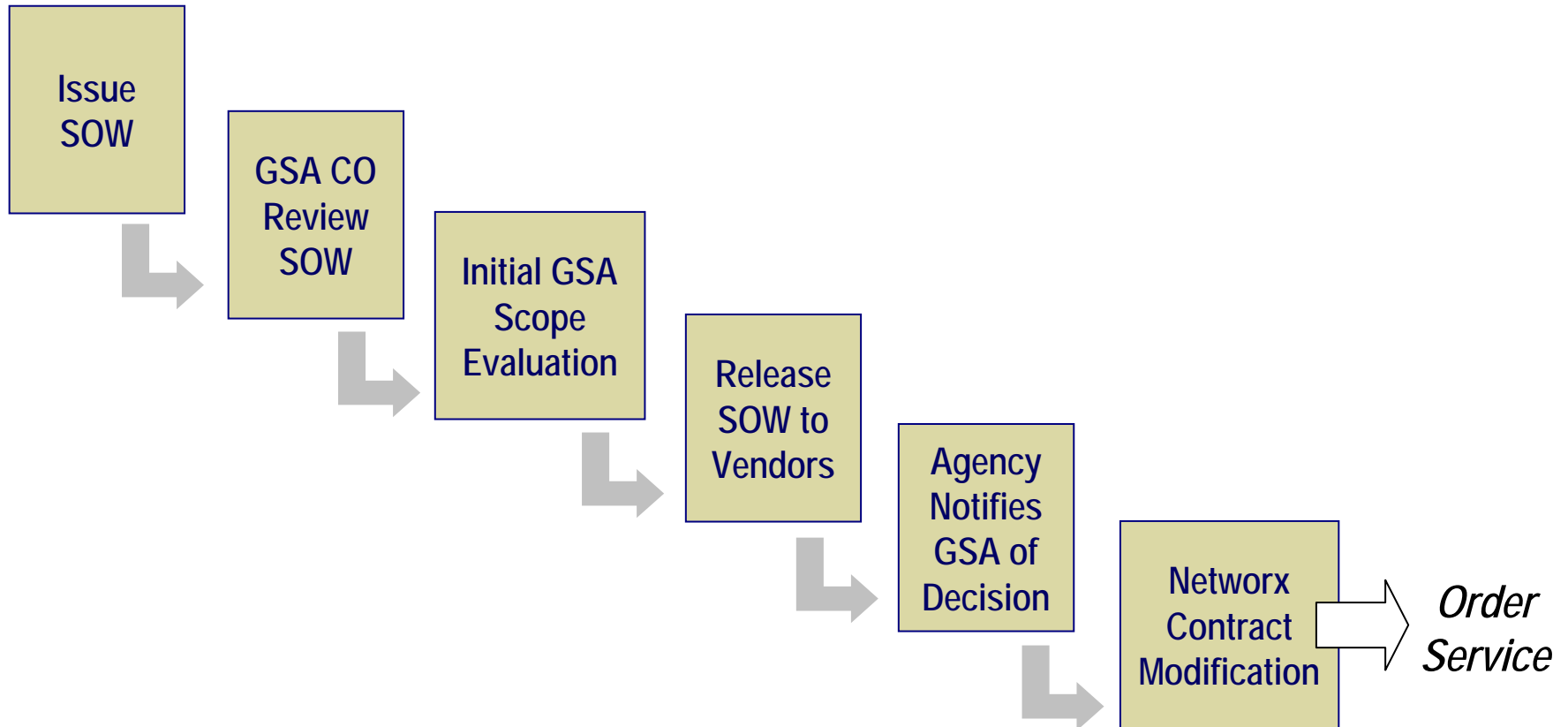
Fair Opportunity applies to all orders, including transition and post-transition, unless one of the statutory exemptions applies

| Exception | Examples that Qualify as Exceptions |
|--|---|
| Unusual urgency that would lead to unacceptable delays | <ul style="list-style-type: none">• Natural disaster or other emergency• Military/mobilization• Immediate short-term need arising on short notice |
| Only one capable contractor | <ul style="list-style-type: none">• Only one contractor offers service• Only one contractor offers service to locations needed• Only one contractor can demonstrate it is capable of providing service as required by user or to required locations |
| Economy, efficiency, and logical follow-on to an order already issued under Fair Opportunity | <ul style="list-style-type: none">• Orders associated with any moves, additions, changes, or similar needs• <u>Incremental orders</u> for same or new service to locations where service already exists or has been ordered• Orders placed to minimize inefficiencies or additional costs that would result from introducing multiple maintenance, operations, training, network management, or other support systems• Orders placed to augment or maintain engineering and operational integrity of established telecommunications capability |

Exceptions – con't

- FAR 16.505 (b)(4) states:
 - “The contracting officer shall document in the contract file the rationale for placement and price of each order, including the basis for award...”
 - The order file “shall also identify the basis for using an exception to the fair opportunity process. If the Agency uses the logical follow-on exception, the rationale shall describe why the relationship between the initial order and the follow-on is logical.”
- If using the logical follow-on exception, Agency will need to reference the initial decision
- If Agency regulations place additional requirements on this process, these additional requirements must be fulfilled
- Note – “logical follow on” cannot be used to move from a FTS2001 to Networx vendor

SOW Process



Agency Next Steps

- Continue identification and documentation of inventory
- Determine how vendor selection decision(s) will be made
- Will requirements be grouped into one or more sets for Fair Opportunity? Make preliminary assessment of acquisition – Networx Universal or Enterprise of each set of requirements
- Identify personnel to conduct the activities outlined in this presentation, including Contracting Officer
- Begin framing requirements
 - Identify how services will be grouped
 - Document the Agency Fair Opportunity Process and develop a template for documenting the Fair Opportunity Decisions
 - Draft SOW if required
- Develop timeline of events pertaining to Agency Contractor Selection

Reference Documents – Online Availability

- The FAR is accessible online at <http://www.acqnet.gov/far> and provides current and archived sections, as well as other documentation

- FAR authority information
 - Forms library
 - FAQ

- The Network RFPs are available on-line
- Also, OFPP Best Practices are online at <http://www.acqnet.gov/Library/OFPP/BestPractices/BestPMAT.html>

1 Access FAR website: <http://www.acqnet.gov/far/>

2 Select applicable section

3 Access GSA Network website: www.gsa.gov/network

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