

UNIT 12: UNPRICED CONTRACTS

October 2003

Overall Duty Prepare unpriced orders and contracts.

Conditions Given forecast requirements, written or unwritten acquisition plan, market research, Procurement Request, and other related documents.

Overall Standard Correctly use unpriced contractual documents in situations where it is impractical to establish an acceptable pricing arrangement prior to contract award and other regulatory requirements are met.

Part A: Unpriced Purchase Orders

Sub-Duty Prepare an unpriced purchase order.

Additional Conditions A decision to use simplified acquisition procedures.

Sub-Duty Standard Use an unpriced purchase order only when:

- Impractical to obtain pricing in advance of issuance of the purchase order;
- Risks of using unpriced orders are relatively insignificant; and
- Other requirements for use of an unpriced purchase order are met.

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Part B: Letter Contracts

Sub-Duty Prepare and definitize a letter contract.

**Additional
Conditions** A decision to use negotiated acquisition procedures.

**Sub-Duty
Standard** Use a letter contract when:

- The Government needs immediate performance;
- Time doesn't permit negotiation of definitive contract; and
- Other requirements for use of a letter contract are met.

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Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
6		Competition requirements.
13.302-2		Unpriced purchase orders.
16.603		Letter contracts.
52.213-3		Notice to supplier.
52.216-23		Execution and commencement of work.
52.216-24		Limitation of Government liability.
52.216-25		Contract definitization.
52.216-26		Payments of allocable costs before definitization.

Other KSAs

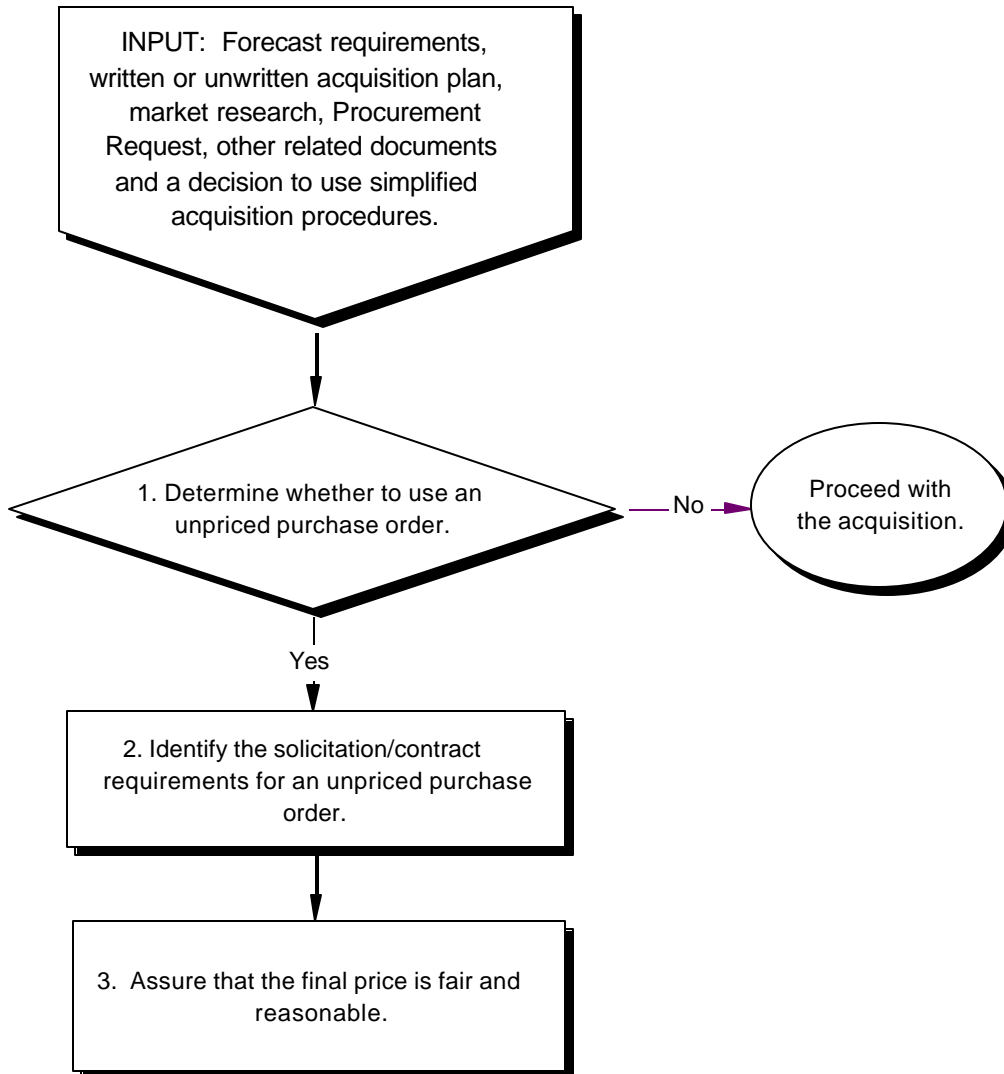
1. Knowledge of when obligation of funds occurs during the contract action.
2. Knowledge of sources of data on market prices.
3. Knowledge of the role of service departments such as procurement in supporting line managers on mission accomplishment.
4. Ability to apply sound business judgment and reasoning in selecting the appropriate contractual document.
5. Ability to persuade others in and outside the Government concerning the need to use an unpriced contractual document.
6. Ability to make decisions based on a customer services perspective and available information.
7. Ability to maintain the honesty and integrity of the acquisition process.

Other Policies and References (Annotate As Necessary):

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Part A: Unpriced Purchase Orders

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Part A: Unpriced Purchase Orders

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Tasks	Related Standards
1. Determine whether to use an unpriced purchase order.	<p>Use an unpriced purchase order for simplified acquisition when:</p> <ul style="list-style-type: none">• It is impractical to obtain pricing before issuing of the purchase order; and• The purchase is for:<ul style="list-style-type: none">- Repairs to equipment requiring disassembly to determine the nature and extent of repairs;- Material available from only one source and for which cost cannot be readily established; or- Supplies or services for which prices are known to be competitive but exact prices are not known (e.g., miscellaneous repair parts or maintenance agreements). <p>For noncommercial requirements, consider the costs and benefits of using a pricing arrangement, such as:</p> <ul style="list-style-type: none">• Time and material or labor hour contract;• Letter contract; or• Cost-reimbursement contract.
2. Identify the solicitation/contract requirements for an unpriced purchase order.	<p>An unpriced purchase order must include the FAR 52.213-3, Notice to Supplier, telling the contractor to withhold performance and notify the Contracting Officer immediately if work cannot be completed within the ceiling price(s).</p> <p>Set a ceiling price for each item or the total order considering available information from acquisition histories, vendor estimates, and market research, accurately calculate realistic monetary limits.</p> <p>The unpriced order should provide for review of any invoice for price reasonableness by the Contracting Officer or a designated representative.</p>

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Part A: Unpriced Purchase Orders

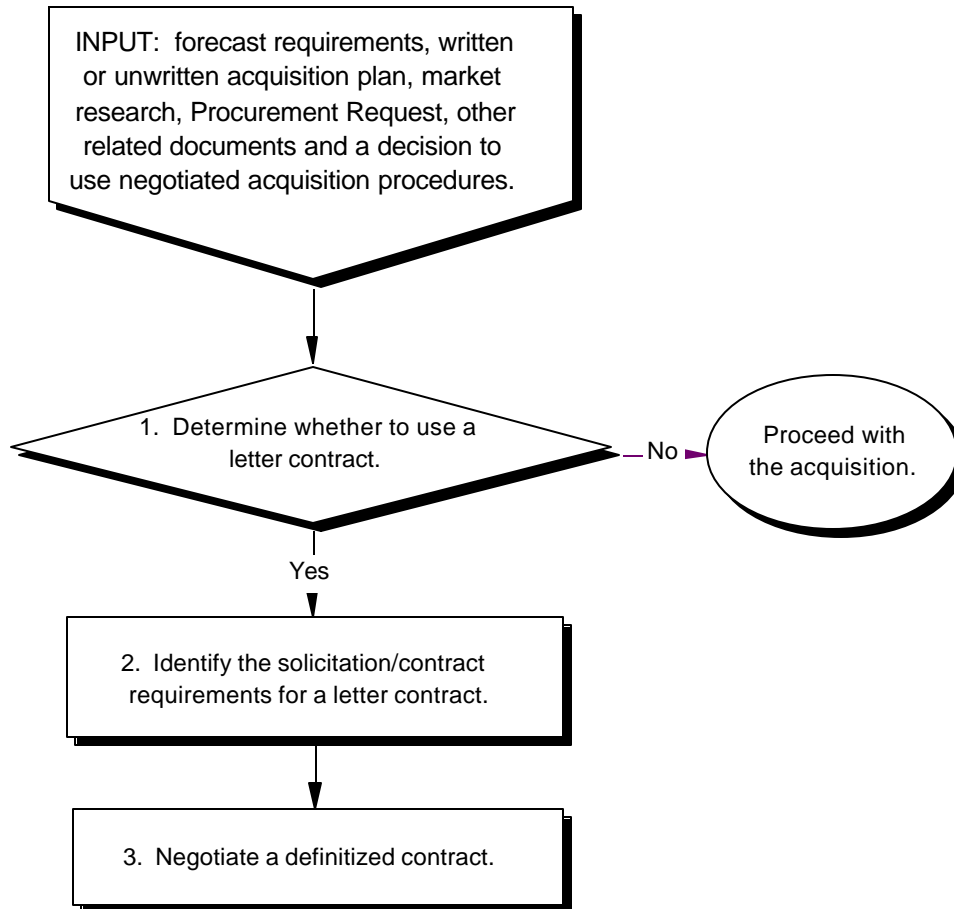
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Tasks	Related Standards
<p>3. Assure that the final price is fair and reasonable.</p>	<p>Follow up on each unpriced order to ensure timely pricing.</p> <p>If a firm fixed-price is not established before the purchase order is completed, assure that the Contracting Officer or a designated representative reviews the invoice price for reasonableness prior to payment.</p> <ul style="list-style-type: none">• Invoices with reasonable prices should be processed for payment.• Invoices with apparently unreasonable prices should be questioned and payment withheld until the matter is resolved.

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Tasks

Related Standards

<p>1. Determine whether to use a letter contract.</p>	<p>Use a letter contract when:</p> <ul style="list-style-type: none">• The Government's interests demand that the contractor be given a binding commitment so that work can start immediately; and• Negotiating a definitive contract is not possible in sufficient time to meet the requirement. <p>Do not use a letter contract unless the head of the contracting activity or a designee determines in writing that no other contract is suitable.</p> <p>The letter contract must not:</p> <ul style="list-style-type: none">• Commit the Government to a definitive contract in excess of the funds available at the time the letter contract is executed;• Be entered into without competition when competition is required by FAR Part 6; or• Be amended to satisfy a new requirement unless that requirement is inseparable from the existing letter contract. Any amendment is subject to the same requirements and limitations as a new letter contract.
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Tasks	Related Standards
<p>2. Identify the solicitation/contract requirements for a letter contract.</p>	<p>A letter contract should be as complete and definite as feasible under the circumstances.</p> <p>It must include:</p> <ul style="list-style-type: none">• FAR 52.216-23, Execution and Commencement of Work unless the letter contract is awarded using a Standard Form 26.• FAR 52.216-24, Limitation of Government Liability with dollar amounts completed with limits on cost and Government liability. The limit on Government liability must not exceed 50 percent of the estimated cost of the definitized contract unless approved by the person who approved the letter contract.• FAR 52.216-25, Contract Definitization, completed with a projected pricing arrangement and a negotiated definitization schedule. The schedule will provide for definitization within 180 days after the contract date or before completion of 40 percent of the required work.• FAR 52.216-26, Payments of Allocable Costs Before Definitization.

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Tasks	Related Standards
3. Negotiate a definitized contract.	<p>Except in extreme cases, complete definitization negotiations with the schedule established in the letter contract. In extreme cases and according to agency procedures, the Contracting Officer may authorize an additional period.</p> <p>The pricing arrangement should be one identified in the FAR 52.216-25, Contract Definitization, clause. Sign no agreement that does not contain a fair and reasonable price.</p> <p>If, after exhausting all reasonable efforts, the Contracting Officer and the contractor cannot negotiate a definitive contract because of failure to reach agreement as to price or fee, the clause at FAR 52.216-25 requires the contractor to proceed with the work and provides that the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee subject to appeal as provided in the Disputes clause.</p>