

UNIT 42: NEGOTIATION STRATEGY

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| Duty | Prepare a negotiation strategy. |
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| Conditions | Given acquisition planning, the solicitation (if any), proposal(s) or quotation(s), technical reports, cost/price analysis, and prenegotiation objectives. |
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| Overall Standard | Establish a plan for negotiations that will permit negotiators to maximize the Government's ability to obtain best value, based on the requirement and established evaluation factors. |
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Policies

| <i>FAR</i> | <i>Agency Suppl.</i> | <i>Subject</i> |
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| 1-102-3 | | Acquisition team. |
| 1-102-4 | | Role of the acquisition team. |
| 3.104 | | Procurement integrity – protecting source selection and proprietary information during discussions. |
| 7.302(d) | | Integrity of cost comparison. |
| 15.207 | | Handling proposals and information. |
| 15.306(d) | | Exchanges with offerors after establishment of the competitive range. |
| 15.306(e) | | Limits on exchanges. |
| 15.404 | | Proposal analysis. |
| 15.405 | | Price negotiation. |

Other KSAs

1. Knowledge of the importance of negotiations in Government acquisition.
2. Knowledge of alternative strategies and tactics for conducting negotiation sessions.
3. Knowledge of potential sources of intelligence on offeror negotiation styles and approaches.
4. Ability to facilitate negotiation success by organizing, briefing, and leading the Government negotiation team in preparation for negotiation.
5. Ability to exercise the attention to detail required to effectively plan for negotiations.
6. Ability to gather, organize, and retain information related to negotiation planning.
7. Ability to read and understand technical reports, audit reports, and related information.
8. Ability to communicate orally and in writing with offerors and other members of the Government negotiation team.
9. Ability to use reasoning skills to organize and evaluate information related to negotiation planning.

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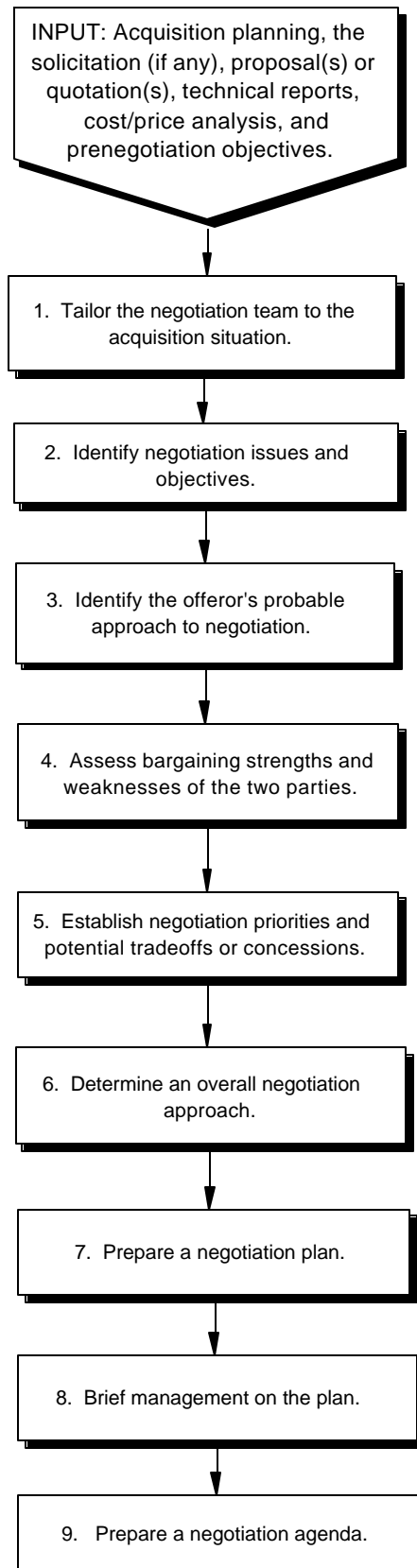
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10. Ability to appropriately consider available information in making effective business decisions related to negotiation planning.
11. Ability to think creatively and recognize new and unique approaches for effective negotiations.
12. Ability to maintain the honesty and integrity of the acquisition process.

Other Policies and References (Annotate As Necessary):

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Related Standards

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| <p>1. Tailor the negotiation team to the acquisition situation.</p> | <p>Select negotiation team members considering the following:</p> <ul style="list-style-type: none">• Use the smallest team practical to efficiently and effectively formulate and attain Government negotiation objectives.<ul style="list-style-type: none">- For smaller less complex contract negotiations, the Contracting Officer or Contract Specialist may be the only Government representative.- As acquisition price and complexity increase, additional experts may be needed.- As team size increases:<ul style="list-style-type: none">? Team control becomes more difficult;? Team communications become more complex; and? Personnel costs associated with the negotiation increase.• Identify potential team members for responsibilities, such as:<ul style="list-style-type: none">- Team leader (normally the Contracting Officer or Contract Specialist);- Technical analyst;- Pricing analyst; and- Business terms analyst.• Select a team leader, considering the:<ul style="list-style-type: none">- Dollar value of the contract action;- Complexity of the issues involved;- Contractual and operational importance;- Policy of the contracting activity; and- Experience of the personnel available.• Select a lead negotiator.<ul style="list-style-type: none">- Normally the team leader, but may be someone else.- May have different lead negotiator for different aspects of a complex negotiation.• Identify other team members only when necessary to improve team efficiency and effectiveness. |

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| <p>2. Identify negotiation issues and objectives.</p> | <p>An issue is any assertion about which the parties involved disagree. In Government contract negotiations, Government disagreement with offeror assertions is normally based on information from:</p> <ul style="list-style-type: none">• A field pricing report;• An audit report;• An in-house technical analysis;• An in-house management analysis;• A cost/price analysis;• An exchange with the offeror; or• Another type of Government analysis. <p>The negotiation objective should be a final proposal revision that provides the best value.</p> <ul style="list-style-type: none">• In a competitive negotiation, evaluate best value based on the offeror's proposal, the solicitation criteria, and the conditions affecting the offeror's operations.• In a noncompetitive negotiation, best value is a contract with a responsible source that:<ul style="list-style-type: none">- Will satisfy Government requirements in terms of product quality and timely delivery;- Has a fair and reasonable price;- Fairly apportions risk between the Government and the offeror; and- Satisfies Government socioeconomic goals (e.g., small business set-asides). <p>Each objective must be fully supported based on facts and market knowledge. They may include pricing issues, technical issues, management issues, and/or trade-offs between different issues.</p> |
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| <p>3. Identify the offeror's probable approach to negotiation.</p> | <p>Understanding each offeror's probable approach will provide the road map that the offeror's negotiator will likely follow to attain the offeror's objectives.</p> <ul style="list-style-type: none">• Sources of information include:<ul style="list-style-type: none">- The current proposal;- Previous proposals and contracts;- Price negotiation memoranda;- Contract negotiators, administrators, and other Government personnel; and- Information from previous exchanges.• Key questions typically include:<ul style="list-style-type: none">- What objectives and priorities has the offeror probably established for the contract negotiation?- How will the offeror's general business objectives and priorities affect the negotiation?- How will the individual objectives and priorities of the offeror's negotiator affect negotiations?- What negotiation styles and tactics will the offeror's negotiator likely use?- What pressures and constraints will affect the offeror's approach to negotiations? |
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| <p>4. Assess bargaining strengths and weaknesses of the two parties.</p> | <p>Recognizing the relative strengths and weaknesses of the parties involved in any negotiation will help you achieve a win/win result. Bargaining power:</p> <ul style="list-style-type: none">• Comes in many forms and is never totally one-sided, because both parties have bargaining strengths and weaknesses.• Has to be perceived by the other party to have an effect on negotiations.• Can be perceived when it does not really exist. <p>Consider common sources of bargaining power, such as:</p> <ul style="list-style-type: none">• Competition or lack of it;• Knowledge of negotiation issues, objectives, priorities, and the parties involved;• Knowledge of the requirement;• Knowledge of the offeror and the market;• Time available to complete negotiations;• Bargaining skills of the negotiators;• Importance of the contract to each party; and• The amount of contract risk and ways to control it. |
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| <p>5. Establish negotiation priorities and potential tradeoffs or concessions.</p> | <p>When establishing negotiation priorities and potential tradeoffs or concessions:</p> <ul style="list-style-type: none">• Rank potential negotiation issues in relative order of importance to the Government. After ranking, identify:<ul style="list-style-type: none">- Nonnegotiable issues or "must points."- Issues open to concession or "give points."- Issues to avoid during negotiations or "avoid points."- Issues open to bargaining or "bargaining points."• Identify tradeoff positions that might be acceptable.<ul style="list-style-type: none">- In a competitive negotiation, use these positions to evaluate the offeror's final proposal revision.- In a noncompetitive negotiation, use these positions to develop counteroffers and establish negotiation limits.• For each tradeoff position, consider the answers to the following questions:<ul style="list-style-type: none">- What result is most reasonable based on the available information?- What is the most desirable result that can reasonably be expected on this issue?- What is the least desirable result that would be accepted on this issue? |
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| 6. Determine an overall negotiation approach. | <p>When determining the overall approach:</p> <ul style="list-style-type: none">• Select the strategy and tactics that are likely to be most effective in accomplishing the Government's priorities and objectives for the negotiation.• Plan the order in which issues will be addressed during negotiations. There is no one right approach. Common approaches include:<ul style="list-style-type: none">- Starting with the least important issues and proceed to the more important ones;- Addressing issues according to the anticipated ease of reaching agreement; and- Using of a building-block approach.• Identify potential concessions, including:<ul style="list-style-type: none">- Potential concessions that the Government would be willing to make in response to projected offeror concessions.- Concessions that the Government would expect from the offeror in response to potential Government concessions.• Plan bargaining tactics suited to the Government negotiator's personality and the tactics that will probably be used by the offeror's negotiator.<ul style="list-style-type: none">- Avoid the use of win/lose tactics. Government negotiators should always pursue a win/win outcome.- Do not try to make the Government negotiator someone he/she is not.- Plan for successful application of any negotiation tactic selected. |

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| 7. Prepare a negotiation plan. | <p>In collaboration with other negotiation team members:</p> <ul style="list-style-type: none">• Draft a negotiation plan. Contents may vary based on agency and activity requirements, but it should include information such as the following:<ul style="list-style-type: none">- Background (e.g., contract, offeror, and negotiation situation);- Major and minor negotiation issues and objectives (both price and non-price);- Negotiation priorities and positions on key issues (including minimum, objective, and maximum positions on price); and- Negotiation approach.• Review the negotiation plan with key negotiation team members.<ul style="list-style-type: none">- Present the plan to the team;- Encourage input from others on the team to identify weaknesses and alternatives;- Revise the plan as necessary;- Define the role each team member will play in putting the plan into action; and- Ensure positions and the overall plan is fair and reasonable.• Assure that team members have individual plans designed to support the overall negotiation plan.<ul style="list-style-type: none">- Emphasize:<ul style="list-style-type: none">? Commitment to a win/win approach;? The principal negotiator is the only individual authorized to negotiate;? Other team members provide support; and? Team members must not openly disagree during negotiation sessions.- Assure that each team member understands his/her specific negotiation role.- Assure that each team member understands the limits on exchanges in FAR 15.306(e).• Stress the Government's need to be flexible and receptive to change during negotiations. |

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| 8. Brief management on the plan. | <p>A management briefing:</p> <ul style="list-style-type: none">• Can take many forms, including:<ul style="list-style-type: none">- An informal oral presentation;- A formal oral presentation; or- A written document (e.g., a prenegotiation or business clearance memorandum).• Must provide for management feedback. In particular management should have the opportunity to:<ul style="list-style-type: none">- Approve or reject the negotiation plan.- Identify any management limits on negotiation flexibility.- Approve or reject changes to the plan that will permit the team to exceed any previously established management limit. |
| 9. Prepare a negotiation agenda. | <p>Consider the proper timing for agenda preparation:</p> <ul style="list-style-type: none">• Preparing an agenda for offeror review prior to the start of contract negotiations gives the offeror an overview of what the Government feels is important and provides the offeror an opportunity to recommend changes.• Some negotiators prefer to wait until the start of negotiations to present the agenda. Though often appropriate, this may delay the start of meaningful negotiations while the agenda is being addressed. <p>The negotiation agenda should include the following items:</p> <ul style="list-style-type: none">• Topics to be addressed and the order in which they will be considered;• A general time schedule for the negotiation sessions;• Location(s) of the negotiation session(s); and• Names and titles of Government and offeror team members. Include office symbols and phone numbers when appropriate. |