

UNIT 38: EVALUATING OTHER TERMS AND CONDITIONS

October 2003

Duty	Develop prenegotiation positions on terms and conditions other than price.
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Conditions	Given acquisition planning, a solicitation, an offer, a technical evaluation, and price/cost analysis.
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Overall Standard	Develop positions that address every significant variance between the terms and conditions in the solicitation and an offeror's proposal. Identify the potential impact on price of each such variance. Identify potential trade-offs between the proposed price, other business terms and conditions, and the technical proposal.
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Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
15.405(b)		Relationship between the negotiation of a contract type and the negotiation of the price.
15.406-1		Prenegotiation objectives.

Other KSAs

1. Knowledge of the various terms and conditions used in the commercial market for similar acquisition requirements.
2. Ability to communicate with offerors and Government technical personnel concerning the factors affecting various terms and conditions.
3. Ability to exercise the attention to detail required to identify information relevant to the contract terms and conditions.
4. Ability to gather, organize, and retain information related to factors affecting contract terms and conditions.
5. Ability to communicate orally and in writing about analysis of contract terms and conditions.
6. Ability to relate to both Government and offeror concerns about risk and other factors affecting contract terms and conditions.
7. Ability to effectively encourage and facilitate teamwork between technical personnel and others involved in evaluating other contract terms and conditions.
8. Ability to read and understand technical reports and related information.
9. Ability to effectively encourage involved Government personnel to work together to identify essential requirements for terms and conditions.
10. Ability to apply creative thinking and flexibility in establishing prenegotiation objectives for other terms and conditions.

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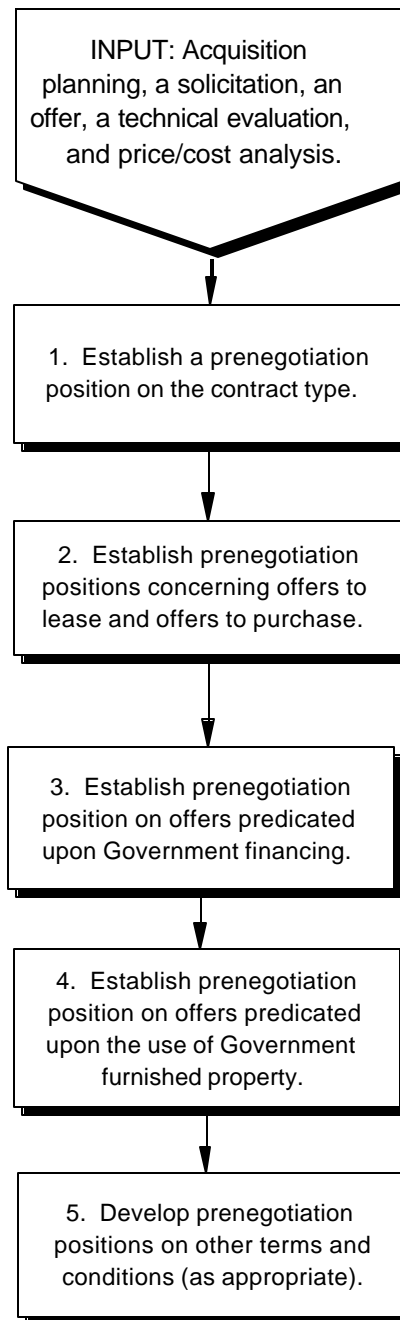
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11. Ability to use reasoning skills to identify significant relationships between various terms and conditions.
12. Ability to recall solutions that have resolved past Government and offeror differences on other contract terms and conditions.
13. Ability to appropriately consider price analysis in making business decisions.
14. Ability to maintain the honesty and integrity of the acquisition process.

Other Policies and References (Annotate As Necessary):

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Tasks	Related Standards
<p>1. Establish a prenegotiation position on the contract type.</p>	<p>Continue using the contract type identified in the solicitation unless:</p> <ul style="list-style-type: none"> • The offeror has proposed a different type than solicited, or • Available information indicates that changing the contract type would probably yield a more optimal final proposal revision. <p>Establish objectives designed to support negotiation of a contract type and price that will provide the contractor with the greatest incentive for efficient and economical performance. The negotiation of a contract type and price are related and should be considered together with the issues of risk and uncertainty to the contractor and the Government.</p>
<p>2. Establish prenegotiation positions concerning offers to lease and offers to purchase.</p>	<p>When the Government solicited both offers to lease and offers to purchase evaluate various offers and establish negotiation objectives. Objective development may involve decisions such as the following:</p> <ul style="list-style-type: none"> • Only negotiate based on offers for purchase; • Only negotiate based on offers for lease; or • Continue to negotiate both offers to purchase and offers to lease.

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Tasks	Related Standards
<p>3. Establish prenegotiation position on offers predicated upon Government financing.</p>	<p>Evaluation is only required when one or more offerors submit an offer predicated on Government financing different than any financing (or lack of financing) presented in the solicitation.</p> <p>In particular, offers involving performance-based progress payments typically require evaluation. Negotiation objective development should include consideration of appropriate milestones and measurement methods, such as identification of the appropriate base and measurement for payment:</p> <ul style="list-style-type: none"> • Performance measured by objective, quantifiable methods; • Accomplishment of defined events; or • Other quantifiable measures of results.
<p>4. Establish prenegotiation position on offers predicated upon the use of Government furnished property.</p>	<p>An evaluation and position development is required when:</p> <ul style="list-style-type: none"> • Offers were solicited based on Government furnished property (GFP) and an offeror proposed different terms than those identified in the solicitation; or • An offeror proposed GFP use when none was contemplated in the solicitation. <p>This evaluation should consider issues other than the price-related factors considered in price analysis.</p>

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Tasks	Related Standards
<p>5. Develop prenegotiation positions on other terms and conditions (as appropriate).</p>	<p>Develop a prenegotiation position when:</p> <ul style="list-style-type: none">• The offeror has proposed different terms and conditions than were in the solicitation, or• Changing (or adding to) the terms and conditions would probably result in a more optimal final proposal revision considering all goals of the acquisition (e.g., price, quality, delivery, risk, and socioeconomic requirements). <p>Terms and conditions that frequently require attention, include:</p> <ul style="list-style-type: none">• The requirements document;• Quality assurance requirements;• Time, place, and method of delivery or performance;• Bonding and/or insurance requirements;• Patents and/or rights in data; and• Warranty requirements.