Overview

There are 21 indefinite delivery, indefinite quantity (IDIQ), multiple award CONNECTIONS II contract holders. The fair opportunity process described in the Federal Acquisition Regulation (FAR) 16.505(b) applies to the CONNECTIONS II contract.

This document serves as guidance and advice for ordering contracting officers (OCOs) based upon practical experience. It does not supersede any requirements of the FAR or any department or agency policies. It is your responsibility as the ordering contracting officer (OCO) to ensure complete adherence to the FAR and any additional internal procedures.

The general guidance falls into three areas.

1. First, the process should be planned, fair and consistent.
2. Second, the total cost should be considered over the full life of the delivery or task order.
3. Third, full and complete documentation is vitally important and must be able to withstand the scrutiny of an audit.

You must provide a fair opportunity to all CONNECTIONS II awardees, unless an exception to fair opportunity is followed. You must exercise sound judgment consistent with the business and mission requirements of the customer agency, when considering a delivery or task order award. The fair opportunity process should be straightforward, simple, and reflective of the nature of the telecommunications infrastructure product, service, or solution being procured.

NOTE:

There is no FAR requirement to communicate any ordering award decision to the contractor(s) that did not receive a particular order. However, it is good business practice and will serve to strengthen communications and relationships with our industry partners. It may also help our industry partners to improve their competitiveness on future awards. We encourage you to provide information to industry partners across the process, particularly on large orders. This would include informing all vendors of planned fair opportunity criteria in advance and informing all vendors when an order has been awarded. It would be appropriate for you or your appointee to notify vendors via written communication (i.e. email or letter).

What you need to document

For each proposal, consult the latest available sources of information in relation to equipment, support service, or solution requirements. Sources of data may include, but are not limited to the following:

- Published contract prices and any other current contractor-provided information (i.e., marketing materials, product specifications, etc.)
- Information sought and received from the contractors (i.e., price quotes, proposals, technical or price analyses, oral presentations, oral discussions, past performance, etc.)
- Related analyses or other information relevant to decision-making

When requesting proposals from the awardees, you should indicate the criteria you are using in the fair opportunity determination. Note that price or cost must be considered under each order as one of the factors in the selection decision.

If you have sufficient information available on-hand to ensure that each awardee is provided a fair opportunity to be considered for an order, then you do not need to distribute a Delivery/Task Order Request before issuing the order. This is not generally recommended under CONNECTIONS II, however, because contract ceiling prices can often be negotiated lower and because technical complexities can make direct comparisons using on-hand information difficult.

You should approach all orders in a consistent manner. Based on consideration of the available information, use one of the following methods in the award decision for each order:

1. The decision may be based solely on relative contract prices without further consideration of other factors. However, the contract prices are ceiling prices and might benefit from further competition.
2. The decision may be based on a combination of price, technical, and past performance considerations appropriate to the particular decision being considered. (For example, a decision to implement a complex design may weigh technical issues more heavily than a decision to install a single piece of equipment.)

Some awards may be based on low price while others may be based on best value. In a request for quotes, you should tell vendors in advance what the evaluation criteria will be for award. If you plan to use weighted factors, you can list them in descending order of value in lieu of showing percentages.

Preference of a specific vendor **cannot** be the basis of an award decision. Sometimes, however, this has been articulated incompletely by the end-customer and it in fact the award may be based upon sound technical considerations. You must determine if this is truly the case, and if so, include these requirements in the fair opportunity analysis. If the end-customer cannot articulate, or you cannot determine legitimate requirements, then an order cannot be placed under the CONNECTIONS II contracts.

How you should document

The central theme in complying with fair opportunity is proper analysis and documentation. Documentation of the above mentioned items can be unique to the individual but it must contain clear evidence of the rationale used to make the award decision. This evidence must encompass sufficient detail to easily remove any doubt in the mind of a reasonable person that fair opportunity methods were utilized.

Please follow these guidelines:

- If the sole criterion of the award is lowest price, this must be documented to include evidence that a pricing analysis was developed.
- Price analyses can either be based on contract award prices or responses to a request for quotes from the CONNECTIONS II vendors. The request for quotes could secure a lower price but might be weighed against the time/resources it would take to complete the process.
- Price analyses should be all inclusive over the full life of the requirement. (Costs to change from another contract's vendor to a CONNECTIONS II vendor should not be included in the analysis.)
- Technical and/or past performance considerations must be thoroughly explained. The rationale for any tradeoffs among cost or price and non-cost considerations in making the award decision must be documented.
- Local conditions can warrant special consideration. Document and disclose them.

Department of Defense – Section 803

For all orders exceeding $100,000 placed against multiple award contracts, which are not part of the Federal Supply Service (FSS) schedules, the contracting officer(s) must contact all awardees that are capable of performing the work and provide them an opportunity to submit a proposal. These proposals then must be fairly considered for the award. The ruling applies to all orders for services placed under multiple award contracts on or after October 25, 2002, regardless of whether the multiple award contracts were awarded before, on, or after, that date. The ruling applies to all orders placed by the Department of Defense (DoD) and non-DoD agencies on behalf of DoD.

Defense Federal Acquisition Regulation Supplement (DFARS) Section 803 language reads that for multiple award contracts, other than FSS Schedule contracts [208.505-70]:

(c) An order for services exceeding $100,000 is placed on a competitive basis only if the contracting officer—

(1) Provides a fair notice of the intent to make the purchase, including a description of the work the contractor shall perform and the basis upon which the contracting officer will make the selection, to all contractors offering the required services under the multiple award contract; and
(2) Affords all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered.

Exceptions to Fair Opportunity

The government may issue orders without the fair opportunity process whenever circumstances warrant the exercise of any exception set forth in 41 USC §253j. In the event that any of the Exceptions to fair opportunity are employed, the rationale must be thoroughly documented.

If the logical follow-on exception is used, the rationale must describe why the relationship between the initial order and the follow-on is logical (e.g., in terms of scope, period of performance, or value).

In accordance with 41USC §253j, fair opportunity does not apply to orders that are under $2,500, although to the extent practicable, such micro-purchases shall be distributed equitably among qualified suppliers. Fair opportunity also does not apply to service orders above $2,500 where the contracting officer determines that:

(1) The need for the equipment or services ordered is of such unusual urgency that providing such opportunity to all contractors would result in unacceptable delays in fulfilling that need;

(2) Only one contractor is capable of providing the equipment or services required at the level of quality required because the equipment or services ordered are unique or highly-specialized;

(3) The delivery or task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued on a competitive basis; or

(4) It is necessary to place the order with a particular contractor to satisfy a minimum revenue guarantee.

Examples of Fair Opportunity Exceptions

Exception Provided for by 41 USC §253j **[abbreviated description]**	**Examples of Delivery or Task Order Types that Qualify As Exceptions**
Unusual urgency that would lead to unacceptable delays	_ Natural disaster or other emergency needs _ Military/mobilization needs _ Immediate short-term need arising on short notice
Only one capable contractor	_ Only one contractor offers the equipment/service _ Only one contractor offers the equipment/service to the locations where the equipment/service is needed _ Only one contractor can demonstrate that it is capable of providing equipment/service in the manner required by the user or to the required locations
Economy, efficiency and logical follow-on to an order already issued under fair opportunity	_ Orders associated with any moves, additions, changes, or similar needs _ Incremental orders for the same or a new equipment/service to locations where equipment/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 maintain the engineering and operational integrity of, or to augment an established telecommunications capability within an organization
Meet a minimum revenue guarantee	_ No examples provided. Self-explanatory.
For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source.	_ No examples provided. Self-explanatory.
In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply. No justification is needed.	_ No examples provided. Self-explanatory.