

# 2011 DoD PROCUREMENT CONFERENCE AND TRAINING SYMPOSIUM

BETTER BUYING - WE HAVE THE POWER




2011 DoD Procurement Conference and Training Symposium





# Source Selection Introduction



***Source Selection*** refers to the process used for competitive, negotiated contracts to obtain the best value for the Government

Acquisitions conducted in accordance with FAR ...

Part 12 (Commercial Items)

Part 13 (Simplified Acquisitions)

Part 14 (Sealed Bidding)

Part 36 (Construction/Architect-Engineer)

Part 37 (Service Contracting) ... etc.

... involve “selection of sources,” but the term “Source Selection” is primarily associated with FAR Part 15





# Source Selection Introduction

Source Selection process may be “formal” or informal:

- Formal source selection used for high-dollar value or complex acquisitions
  - Someone other than PCO appointed as source selection authority (SSA) to determine **best value**...required in DoD for \$100M or more
- Non-formal source selection procedures less complex
  - PCO determines which offer constitutes **best value** and makes award decision





# Best Value

Concept of **Best Value** is essence of source selection!

- Agencies can obtain best value by using one or a combination of source selection approaches
- For different acquisitions, relative importance of cost/price can vary
  - For acquisitions where requirement clearly definable and risk of unsuccessful contract performance minimal, cost/price should play **dominant** role in source selection





# Best Value

At one end of “best value” continuum:

## Low Price Technically Acceptable (LPTA)

Appropriate when the requirement is not complex, and technical and performance risks are minimal





# Best Value

**Cost Factors  
Most Important**

**Cost/Non-Cost Factors  
Equally Important**

**Non-Cost Factors  
Most Important**



**Lowest Price  
Technically Acceptable  
(LPTA)**





# Best Value

## Low Price Technically Acceptable (LPTA)

- Evaluation factors/subfactors set forth in solicitation
- Solicitation must specify that award based on low price
- Past performance a required evaluation factor unless waived
- If past performance considered, no comparative assessment
- Proposals evaluated for acceptability but not ranked using non-cost/price factors

**No additional “credit” for exceeding established standards!**





# Best Value

## Common LPTA Examples







# Best Value

Along the “best value” continuum is...

## The Tradeoff Process

Appropriate when in Government’s best interest to consider award to other than lowest priced or highest technically rated offeror

When using tradeoff process:

- Evaluation factors and significant subfactors that affect contract award ...and relative importance ...must be clearly stated in the solicitation!





# Best Value

## Tradeoff Process, cont.

Solicitation must state whether all evaluation factors other than cost or price, when combined:

- Significantly more important than,
- Approximately equal to, or
- Significantly less important than cost or price

Tradeoffs among cost or price and non-cost factors permit Government to accept other than lowest priced proposal

***Perceived benefits of the higher priced proposal must merit the additional cost!***



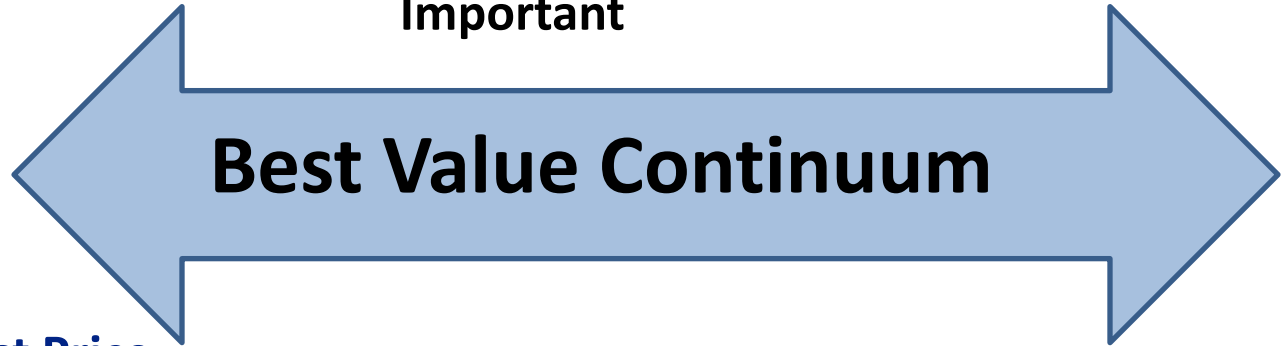


# Best Value

Cost Factors Most Important

Cost/Non-Cost Factors Equally Important

Non-Cost Factors Most Important



Lowest Price  
Technically Acceptable



*Non-Cost Factors Increasingly Important*





# Best Value

## Common Tradeoff Process Examples





# Exchanges Before Receipt of Proposals

“Exchanges of information among all interested parties, from the earliest identification of a requirement through receipt of proposals, are encouraged.” — FAR 15.201

## Advantages:

- ✓ Improves understanding of Gov't requirements/Industry capabilities
- ✓ Suppliers can judge if able to meet Gov't requirements
- ✓ Increases competition
- ✓ Improves efficiency of proposal preparation, evaluation, negotiation, award

Request for Information

Draft RFP

Site visits

Preproposal

Conference

Presolicitation Conference





# Evaluation Factors

Evaluation factors required by FAR Subpart 15.3:

- Price/cost
- Quality (see box below)
- Past performance > SAT
- SDB participation > \$650,000 (\$1.5M construction)

## Quality

Technical excellence  
Management capability  
Personnel qualifications  
Prior experience





# Past Performance Evaluation

## FAR Subpart 15.3 required factors:

- Price/cost
- Quality
- Past performance > SAT
  - Past performance evaluation separate from responsibility determination (FAR 9.1)
  - Solicitation must:
    - Describe approach for evaluating past performance
    - Provide offerors opportunity to identify past/current contracts
    - Allow offerors to provide information on past problems/corrections
  - If no record of relevant past performance, assign “neutral” rating
- SDB participation > \$650,000 (\$1.5M construction)





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# Oral Presentations

**Oral presentations can substitute for or augment written information:**

- ✓ **Streamline source selection process**
- ✓ **Subject to same FAR requirements imposed on written information regarding timing/content**
- ✓ **Present opportunity for dialogue among parties that may be limited with written information**






# Exchanges After Receipt of Proposals



## **FAR 15.306**

The term “exchanges” includes:

- Clarifications and award without discussions
  - Communications with offerors *before* establishment of competitive range
  - Exchanges with offerors *after* establishment of competitive range
- 





# Exchanges After Receipt of Proposals



The term “exchanges” includes:

- **Clarifications and award without discussions**
  - Explain relevance of past performance information
  - Correct clerical errors
  - Award can be made without discussions (solicitation provision)
- Communications with offerors before establishment of the competitive range
- Exchanges with offerors after establishment of the competitive range





# Exchanges After Receipt of Proposals

The term “exchanges” includes:

- Clarifications and award without discussions
- **Communications with offerors before establishment of the competitive range**
  - **Discuss adverse past performance information**
  - **Only with offerors whose inclusion in competitive range uncertain**
  - **Cannot be used to allow proposal revisions**
- Exchanges with offerors after establishment of the competitive range





# Exchanges After Receipt of Proposals

The term “exchanges” includes:

- Clarifications and award without discussions
- Communications with offerors before establishment of the competitive range
- **Exchanges with offerors after establishment of competitive range**
  - Also called “discussions” or “bargaining”
  - Objective: Maximize Govt’s ability to obtain *Best Value*
  - Conducted with each offeror in competitive range
  - Tailored to each offeror’s proposal





# Limits on Exchanges

## **FAR 15.306(e)**

Government cannot:

- Favor one offeror over another
- Reveal offeror's technical solution
- Reveal offeror's price without offeror's permission  
— May inform offeror that its price considered too high or too low and reveal analysis
- Reveal names of individuals providing information about offeror's past performance





# Source Selection Procedures

## Following Procedures is Essential!

Building trust in Government source selection process:

- ✓ Maintains public/taxpayer confidence
- ✓ Encourages suppliers to do business with Gov't
- ✓ Reduces potential for protests of contract actions

Trust is achieved by following prescribed (and accessible) source selection procedures

**Trust requires effective communication**





# Source Selection Procedures



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
PROCUREMENT POLICY

February 2, 2011

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS  
SENIOR PROCUREMENT EXECUTIVES  
CHIEF INFORMATION OFFICERS

FROM: Daniel I. Gordon  
Administrator for Federal Procurement Policy

SUBJECT: "Myth-Busting": Addressing Misconceptions to Improve Communication  
with Industry during the Acquisition Process

With expenditures of over \$500 billion annually on contracts and orders for goods and services, the federal government has an obligation to conduct our procurements in the most effective, responsible, and efficient manner possible. Access to current market information is critical for agency program managers as they define requirements and for contracting officers as they develop acquisition strategies, seek opportunities for small businesses, and negotiate contract terms. Our industry partners are often the best source of this information, so productive interactions between federal agencies and our industry partners should be encouraged to ensure that the government clearly understands the marketplace and can award a contract or order for an effective solution at a reasonable price. Early, frequent, and constructive engagement with industry is especially important for complex, high-risk procurements, including (but not limited to) those for large information technology (IT) projects. This is why increasing communication, in the form of a "myth-busters" educational campaign, is one of the key tenets of the Office of Management and Budget's 25 Point Implementation Plan to Reform Federal IT Management.<sup>1</sup>

The Federal Acquisition Regulation (FAR) authorizes a broad range of opportunities for vendor communication<sup>2</sup>, but agencies often do not take full advantage of these existing flexibilities. Some agency officials may be reluctant to engage in these exchanges out of fear of protests or fear of binding the agency in an unauthorized manner; others may be unaware of effective strategies that can help the acquisition workforce and industry make the best use of their time and resources. Similarly, industry may be concerned that talking with an agency may create a conflict of interest that will preclude them from competing on future requirements, or industry may be apprehensive about engaging in meaningful conversations in the presence of other vendors.

<sup>1</sup>25 Point Implementation Plan to Reform Federal Information Technology Management available at <http://cio.gov/documents/25-Point-Implementation-Plan-to-Reform-Federal%20IT.pdf>

<sup>2</sup> For example, FAR 10.002(b)(2) authorizes a wide range of techniques for conducting market research, including participation in interactive, online communications with industry.







# Evaluation Standards

Proposals are rated by PCO or source selection team

**Blue**

**Outstanding**

**Purple**

**Good**

**Green**

**Acceptable**

**Yellow**

**Marginal**

**Red**

**Unacceptable**





# Evaluation Standards

**DoD Source Selection Procedures defines rating categories and descriptions ...**

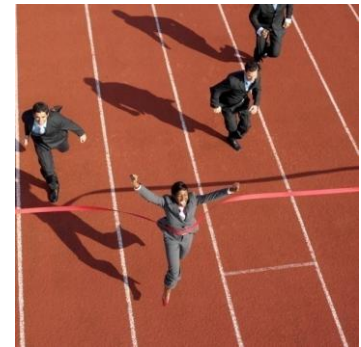
Color	Rating	Description
Blue	Outstanding	Proposal meets requirements and indicates an exceptional approach and understanding of the requirements. The proposal contains multiple strengths and no deficiencies.
Purple	Good	Proposal meets requirements and indicates a thorough approach and understanding of the requirements. Proposal contains at least one strength and no deficiencies.
Green	Acceptable	Proposal meets requirements and indicates an adequate approach and understanding of the requirements. Proposal has no strengths or deficiencies.
Yellow	Marginal	Proposal does not clearly meet requirements and has not demonstrated an adequate approach and understanding of the requirements.
Red	Unacceptable	Proposal does not meet requirements and contains one or more deficiencies and is unawardable.





# Competitive Range

- Comprised of most highly rated proposals
- Limited to number permitting efficient competition
- Proposals can be subsequently removed from range
- Eliminated offerors can request debriefing



**Do not set predetermined cut-off ratings or predetermined number of offerors!**





# Competitive Range

***Competitive range determination*** requires judgment, but should be based on “natural grouping”

## Example

<u>Company</u>	<u>Offered Price</u>	<u>Technical Rating</u>
Acme Inc.	\$450,000	Outstanding
Countywide	\$439,000	Good
Tip Top Inc.	\$459,000	Outstanding
Smith Bros	\$613,000	Marginal
Reliable Inc.	\$505,000	Unacceptable





# Preaward Debriefings

## **Offerors excluded from competitive range may request debriefing**

**Request in writing within 3 days after notification**

- **At contracting officer discretion if made after 3 days**
- **Contracting officer discretion on method: meeting, telephone, letter, e-mail**

**Preaward debriefings must cover:**

- ✓ **Agency's evaluation of significant elements in proposal**
- ✓ **Summary of rationale for eliminating offeror from competition**
- ✓ **Responses to questions on whether procedures contained in solicitation and regulations followed during evaluation**





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**Must not** disclose:

- X Number of offerors or identities
- X Content of other proposal
- X Ranking or evaluations of other offerors





# Proposal Revisions

- Clarify and document understandings reached during negotiations
- At end of discussions, each offeror in competitive range may submit final revisions
- Establish common cut-off date for receipt of final revisions to ensure fairness and timeliness
- If eliminated from competitive range, no further revisions accepted





# The Source Selection Decision

**SSA's decision based on comparative assessment of proposals against source selection criteria in solicitation**

**While SSA may use reports/analyses prepared by others, source selection decision represents SSA's independent judgment**

**Documentation must include rationale for business judgments and tradeoffs**

- **Benefits associated with additional costs**
- **Do not have to quantify tradeoffs that led to decision**







# Postaward Debriefings

Offerors in competitive range entitled to debriefing after award

- Request in writing within 3 days after notification
- May include offerors excluded from range if requested a postaward (vs. preaward) debriefing

Debriefing must include (FAR 15.506):

- ✓ Evaluation of significant **weaknesses/deficiencies** in offeror's proposal
- ✓ Overall evaluated **cost/price and technical rating** of successful offeror and debriefed offeror (no unit prices in DoD)
- ✓ **Past performance** information on debriefed offeror
- ✓ Overall **ranking** of all offerors
- ✓ Summary of **rationale** for the award
- ✓ Commercial items: **Make/model** of successful offeror's item(s)
- ✓ Responses to questions on whether **source selection procedures** in solicitation/regulations followed during evaluation





# Postaward Debriefings

## Debriefing must **not** include:

- x Trade secrets
- x Confidential manufacturing processes
- x Privileged financial information including cost breakdowns, profit, indirect cost rates
- x Names of individuals providing reference information about offeror's past performance
- x **Documentation not presented to/considered by SSA**
- x **Validity of requirements**
- x **Names of persons on the source selection team (name of SSA is permitted)**

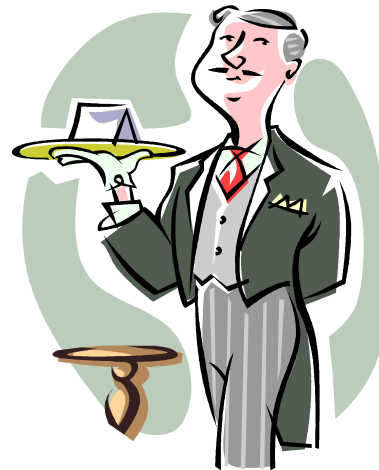




# Formal Source Selection

**Most of what we just covered applies to source selection procedures “in general”**

**So, what’s this talk about “formal” source selection?**





# Formal Source Selection



No **Government-wide** prescription for “formal” source selections... it’s not mentioned in the FAR

*Before –*

DFARS 215.303 – “For high-dollar value and other acquisitions, **as prescribed by agency procedures**, the source selection authority shall approve a source selection plan before the solicitation is issued.”





# Formal Source Selection

## Example of “agency procedures”:

- Army – Solicitations with dollar value > \$50M will have SSA designated at a level above contracting officer
- Air Force designates use of formal procedures for acquisitions > \$10 million
- Navy/Marines – decided by Head of Contracting Activity based on “high dollar value, mission importance, political visibility”
- DLA delegates authority to appoint source selection authority, if other than contracting officer, to Chief of Contracting Office





# Formal Source Selection

**Now –**

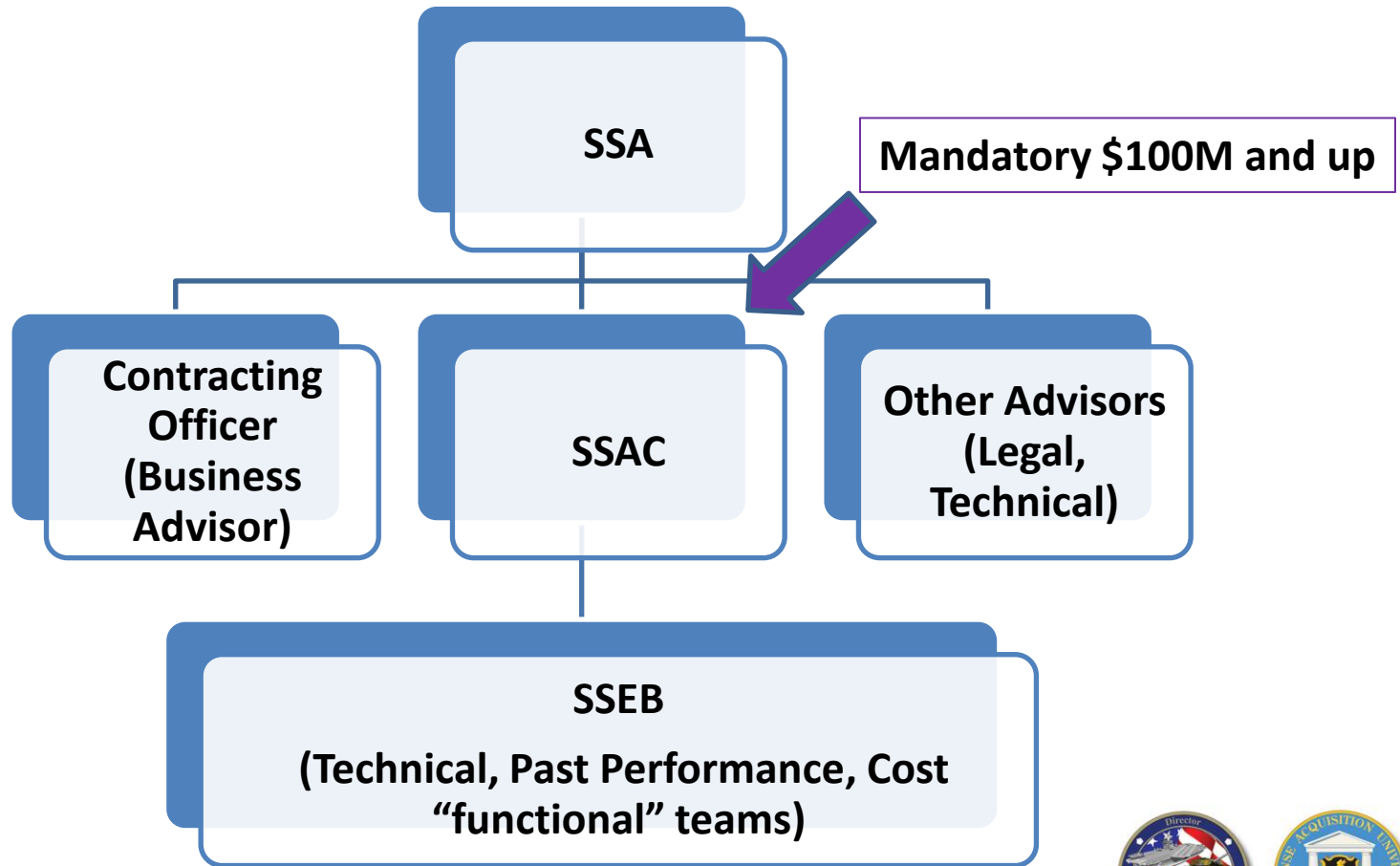
***DoD* Source Selection Procedures!**





# Formal Source Selection

Size and composition of source selection organization tailored to each acquisition:





# Lessons Learned

**A word to the wise ...**







# Lessons Learned

## Pitfalls to Avoid

- Failure to strictly follow the stated source selection criteria
- Insufficient documentation of evaluations
- Inadequate training of source selection team members
- Lack of guidance from source selection leaders





# Lessons Learned

## Pitfalls to Avoid

- Failure to strictly follow the stated source selection criteria
- Insufficient documentation of evaluations
- Inadequate training of source selection team members
- Lack of guidance from source selection leaders

***“Where a protester challenges the source selection, we will review the evaluation and award decision to determine if they were reasonable and consistent with the solicitation’s evaluation scheme and procurement statutes and regulations, and to ensure that the agency adequately documented the basis for the selection.”***

**— Comptroller General (GAO)**





# Lessons Learned

**"When you talk to folks from GAO, it's pretty fundamental why we lose protests when we do lose them. We said we were going to evaluate someone in accordance with a set of criteria, and either we don't evaluate them in accordance with that criteria or we haven't properly documented it, such that there's ambiguity and confusion."**

**— Shay Assad**



# DoD Source Selection Procedures

DPAP (Defense Procurement Acquisition Policy) - Microsoft Internet Explorer provided by Defense Acquisition University

http://www.acq.osd.mil/dpap/

DPAP (Defense Procurement Acquisition Policy)

## Defense Procurement and Acquisition Policy

DPAP is responsible for all acquisition and procurement policy matters in the Department of Defense (DoD). The DPAP office serves as the principal advisor to the Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) and the Defense Acquisition Board on acquisition/procurement strategies for all major weapon systems programs, major automated information systems programs, and services acquisitions.

**Policy Vault**

**Shay Assad**  
Director, Defense Procurement

Mr. Shay Assad assumed the role of director on April 3, 2006. As the Director of the Defense Procurement, Acquisition Policy and Strategic Sourcing (DPAP), he is responsible for all acquisition and procurement policy matters in the Department of Defense (DoD). [Read More](#)

### DPAP Initiatives

- Workforce Management**  
The Department of Defense (DoD) Acquisition, Technology and Logistics (AT&L) community supports and safeguards our nation's warfighters. It is essential that AT&L continues to champion a knowledge-based workforce capable of delivering equipment and services to warfighters in need. [Read More >>](#)
- Contingency Contracting**  
Contingency Contracting support has evolved from purchases not greater than the simplified threshold for defense procurement and emergency support of commodities, services, and construction for military operations and for other emergency relief activities such as Hurricane Katrina. [Read More >>](#)
- Panel on Contracting Integrity**  
Under Secretary of Defense Acquisition, Technology & Logistics (USD(AT&L)) established the Panel on Contracting Integrity in accordance with the requirements of Section 813 of the Fiscal Year 2007 National Defense Authorization Act. Although the statute provides a sunset date of 2009 for the Panel, the Department intends to continue the Panel as a matter of policy. [Read More >>](#)
- Peer Reviews**

[http://www.acq.osd.mil/dpap/ops/policy\\_vault.html](http://www.acq.osd.mil/dpap/ops/policy_vault.html)

[www.acq.osd.mil/dpap/](http://www.acq.osd.mil/dpap/) → Policy Vault → 03/04/11





# DAU Online Training Resources

www.dau.mil

## CLC007, Contract Source Selection

### Acquimedia Articles

- Source Selection
- Fair and Reasonable Price Determination
- Conflicts of Interest

### Source Selection Community of Practice (ACC)

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# DoD Source Selection

