



Overview

There are 7 indefinite delivery, indefinite quantity (IDIQ), multiple award USA Contact contract holders. The fair opportunity process described in the Federal Acquisition Regulation (FAR) 16.505(b) applies to the USA Contact 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 USA Contact contract 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.

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.
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 multi-channel contact center may weigh technical issues more heavily than a decision to implement a Tier 1 single channel contact center.)

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.

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 should be all inclusive over the full life of the requirement. (Costs to change from another contract's vendor to a USA CONTACT contract 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.
- Preference of a specific vendor **cannot** be the basis of an award decision.

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 \$3,500, although to the extent practicable, such micro-purchases shall be distributed equitably among qualified suppliers. Fair opportunity shall be given to every contract awardee for task orders exceeding \$3,500 unless one of the statutory exceptions applies:

- (1) The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.
- (2) Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.
- (3) The order must 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 under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.
- (4) It is necessary to place an order to satisfy a minimum guarantee.
- (5) For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source.



(6) 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.