

this requirement is waived on the basis of a justification that is prepared and approved in accordance with 8.405-6.

(ii) The ordering activity contracting officer shall provide an RFQ that includes a statement of work and the evaluation criteria.

(iii) The ordering activity contracting officer shall—

(A) Post the RFQ on e-Buy to afford all schedule contractors offering the required services under the appropriate multiple-award schedule(s) an opportunity to submit a quote; or

(B) Provide the RFQ to as many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that quotes will be received from at least three contractors that can fulfill the requirements. When fewer than three quotes are received from schedule contractors that can fulfill the requirements, the contracting officer shall prepare a written determination to explain that no additional contractors capable of fulfilling the requirements could be identified despite reasonable efforts to do so. The determination must clearly explain efforts made to obtain quotes from at least three schedule contractors.

(C) Ensure all quotes received are fairly considered and award is made in accordance with the evaluation criteria in the RFQ.

(4) The ordering activity shall provide the RFQ (including the statement of work and the evaluation criteria) to any schedule contractor who requests a copy of it.

(d) *Evaluation.* The ordering activity shall evaluate all responses received using the evaluation criteria provided to the schedule contractors. The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable. Place the order with the schedule contractor that represents the best value (*see* 8.404(d) and 8.405-4). After award, ordering activities should provide timely notification to unsuccessful offerors. If an unsuccessful offeror requests information on an award that was based on factors other than price alone, a brief explanation of the basis

for the award decision shall be provided.

(e) *Minimum documentation.* The ordering activity shall document—

(1) The schedule contracts considered, noting the contractor from which the service was purchased;

(2) A description of the service purchased;

(3) The amount paid;

(4) The evaluation methodology used in selecting the contractor to receive the order;

(5) The rationale for any tradeoffs in making the selection;

(6) The price reasonableness determination required by paragraph (d) of this subsection;

(7) The rationale for using other than—

(i) A firm-fixed price order; or

(ii) A performance-based order; and .

(8) When an order exceeds the simplified acquisition threshold, evidence of compliance with the ordering procedures at 8.405-2(c).

[69 FR 34234, June 18, 2004, as amended at 70 FR 43579, July 27, 2005; 76 FR 14553, Mar. 16, 2011]

#### **8.405-3 Blanket purchase agreements (BPAs).**

(a) *Establishment.* (1) Ordering activities may establish BPAs under any schedule contract to fill repetitive needs for supplies or services. Ordering activities shall establish the BPA with the schedule contractor(s) that can provide the supply or service that represents the best value.

(2) In addition to price (*see* 8.404(d) and 8.405-4), when determining best value, the ordering activity may consider, among other factors, the following:

(i) Past performance.

(ii) Special features of the supply or service required for effective program performance.

(iii) Trade-in considerations.

(iv) Probable life of the item selected as compared with that of a comparable item.

(v) Warranty considerations.

(vi) Maintenance availability.

(vii) Environmental and energy efficiency considerations.

(viii) Delivery terms.

(3)(i) The ordering activity contracting officer shall, to the maximum extent practicable, give preference to establishing multiple-award BPAs, rather than establishing a single-award BPA.

(ii) No single-award BPA with an estimated value exceeding \$103 million (including any options), may be awarded unless the head of the agency determines in writing that—

(A) The orders expected under the BPA are so integrally related that only a single source can reasonably perform the work;

(B) The BPA provides only for firm-fixed priced orders for—

(1) Products with unit prices established in the BPA; or

(2) Services with prices established in the BPA for specific tasks to be performed;

(C) Only one source is qualified and capable of performing the work at a reasonable price to the Government; or

(D) It is necessary in the public interest to award the BPA to a single source for exceptional circumstances.

(iii) The requirement for a determination for a single-award BPA greater than \$103 million is in addition to any applicable requirement for a limited-source justification at 8.405-6. However, the two documents may be combined into one document.

(iv) In determining how many multiple-award BPAs to establish or that a single-award BPA is appropriate, the contracting officer should consider the following factors and document the decision in the acquisition plan or BPA file:

(A) The scope and complexity of the requirement(s);

(B) The benefits of on-going competition and the need to periodically compare multiple technical approaches or prices;

(C) The administrative costs of BPAs; and

(D) The technical qualifications of the schedule contractor(s).

(4) BPAs shall address the frequency of ordering, invoicing, discounts, requirements (*e.g.*, estimated quantities, work to be performed), delivery locations, and time.

(5) When establishing multiple-award BPAs, the ordering activity shall speci-

fy the procedures for placing orders under the BPAs in accordance with 8.405-3(c)(2).

(6) Establishment of a multi-agency BPA against a Federal Supply Schedule contract is permitted if the multi-agency BPA identifies the participating agencies and their estimated requirements at the time the BPA is established.

(7) *Minimum documentation.* The ordering activity contracting officer shall include in the BPA file documentation the—

(i) Schedule contracts considered, noting the contractor to which the BPA was awarded;

(ii) Description of the supply or service purchased;

(iii) Price;

(iv) Required justification for a limited-source BPA (*see* 8.405-6), if applicable;

(v) Determination for a single-award BPA exceeding \$100 million, if applicable (*see* (a)(3)(ii));

(vi) Documentation supporting the decision to establish multiple-award BPAs or a single-award BPA (*see* (a)(3)(iv));

(vii) Evidence of compliance with paragraph (b) of this section, for competitively awarded BPAs, if applicable; and

(viii) *Basis for the award decision.* This should include the evaluation methodology used in selecting the contractor, the rationale for any tradeoffs in making the selection, and a price reasonableness determination for services requiring a statement of work.

(b) *Competitive procedures for establishing a BPA.* This paragraph applies to the establishment of a BPA, in addition to applicable instructions in paragraph (a).

(1) *For supplies, and for services not requiring a statement of work.* The procedures of this paragraph apply when establishing a BPA for supplies and services that are listed in the schedule contract at a fixed price for the performance of a specific task, where a statement of work is not required (*e.g.*, installation, maintenance, and repair).

(i) *If the estimated value of the BPA does not exceed the simplified acquisition threshold.* (A) The ordering activity shall:

(1) Consider reasonably available information about the supply or service offered under MAS contracts by surveying at least three schedule contractors through the GSA Advantage! on-line shopping service, by reviewing the catalogs or pricelists of at least three schedule contractors, or by requesting quotations from at least three schedule contractors (see 8.405-5); or

(2) Document the circumstances for restricting consideration to fewer than three schedule contractors based on one of the reasons at 8.405-6(a).

(B) The ordering activity shall establish the BPA with the schedule contractor(s) that can provide the best value.

(ii) *If the estimated value of the BPA exceeds the simplified acquisition threshold.* The ordering activity contracting officer:

(A) Shall provide an RFQ that includes a description of the supplies to be delivered or the services to be performed and the basis upon which the selection will be made.

(B)(1) Shall post the RFQ on e-Buy to afford all schedule contractors offering the required supplies or services under the appropriate multiple award schedule(s) an opportunity to submit a quote; or

(2) Shall provide the RFQ to as many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that quotes will be received from at least three contractors that can fulfill the requirements. When fewer than three quotes are received from schedule contractors that can fulfill the requirements, the contracting officer shall prepare a written determination explaining that no additional contractors capable of fulfilling the requirements could be identified despite reasonable efforts to do so. The determination must clearly explain efforts made to obtain quotes from at least three schedule contractors.

(C) Shall ensure all quotes received are fairly considered and award is made in accordance with the basis for selection in the RFQ. After seeking price reductions (see 8.405-4), establish the BPA with the schedule contractor(s) that provides the best value.

(D) The BPA must be established in accordance with paragraphs (b)(1)(ii)(B) and (C) of this section, unless the requirement is waived on the basis of a justification that is prepared and approved in accordance with 8.405-6.

(2) *For services requiring a statement of work.* This applies when establishing a BPA that requires services priced at hourly rates, as provided by the schedule contract. The applicable services will be identified in the Federal Supply Schedule publications and the contractor's pricelists.

(i) *Statements of Work (SOWs).* The ordering activity shall develop a statement of work. All Statements of Work shall include a description of work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements (e.g., security clearances, travel, and special knowledge). To the maximum extent practicable, agency requirements shall be performance-based statements (see subpart 37.6).

(ii) *Type-of-order preference.* The ordering activity shall specify the order type (i.e., firm-fixed price, labor-hour) for the services identified in the statement of work. The contracting officer should establish firm-fixed prices, as appropriate.

(iii) *Request for Quotation procedures.* The ordering activity must provide a RFQ, which includes the statement of work and evaluation criteria (e.g., experience and past performance), to schedule contractors that offer services that will meet the agency's needs. The RFQ may be posted to GSA's electronic RFQ system, e-Buy (see 8.402(d)).

(iv) *If the estimated value of the BPA does not exceed the simplified acquisition threshold.* The ordering activity shall provide the RFQ (including the statement of work and evaluation criteria) to at least three schedule contractors that offer services that will meet the agency's needs.

(v) *If estimated value of the BPA exceeds the simplified acquisition threshold.* The ordering activity contracting officer—

(A) Shall post the RFQ on e-Buy to afford all schedule contractors offering the required supplies or services under

the appropriate multiple-award schedule an opportunity to submit a quote; or

(B) Shall provide the RFQ, which includes the statement of work and evaluation criteria, to as many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that quotes will be received from at least three contractors that can fulfill the requirements. When fewer than three quotes are received from schedule contractors that can fulfill the requirements, the contracting officer shall document the file. The contracting officer shall prepare a written determination explaining that no additional contractors capable of fulfilling the requirements could be identified despite reasonable efforts to do so. The determination must clearly explain efforts made to obtain quotes from at least three schedule contractors.

(vi) The ordering activity contracting officer shall ensure all quotes received are fairly considered and award is made in accordance with the basis for selection in the RFQ. The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform, and for determining that the proposed price is reasonable.

(vii) The BPA must be established in accordance with paragraph (b)(2)(iv) or (v), and with paragraph (b)(2)(vi) of this section, unless the requirement is waived on the basis of a justification that is prepared and approved in accordance with 8.405-6.

(viii) The ordering activity contracting officer shall establish the BPA with the schedule contractor(s) that represents the best value (*see* 8.404(d) and 8.405-4).

(3) After award, ordering activities should provide timely notification to unsuccessful offerors. If an unsuccessful offeror requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.

(c) *Ordering from BPAs.* The procedures in this paragraph (c) are not required for BPAs established on or before May 16, 2011. However, ordering ac-

tivities are encouraged to use the procedures for such BPAs.

(1) *Single-award BPA.* If the ordering activity establishes a single-award BPA, authorized users may place the order directly under the established BPA when the need for the supply or service arises.

(2) *Multiple-award BPAs.* (i) *Orders at or below the micro-purchase threshold.* The ordering activity may place orders at or below the micro-purchase threshold with any BPA holder that can meet the agency needs. The ordering activity should attempt to distribute any such orders among the BPA holders.

(ii) *Orders exceeding the micro-purchase threshold but not exceeding the simplified acquisition threshold.* (A) The ordering activity must provide each multiple-award BPA holder a fair opportunity to be considered for each order exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold unless one of the exceptions at 8.405-6(a)(1)(i) applies.

(B) The ordering activity need not contact each of the multiple-award BPA holders before placing an order if information is available to ensure that each BPA holder is provided a fair opportunity to be considered for each order.

(C) The ordering activity contracting officer shall document the circumstances when restricting consideration to less than all multiple-award BPA holders offering the required supplies and services.

(iii) *Orders exceeding the simplified acquisition threshold.* (A) The ordering activity shall place an order in accordance with paragraphs (c)(2)(iii)(A)(1), (2) and (3) of this paragraph, unless the requirement is waived on the basis of a justification that is prepared and approved in accordance with 8.405-6. The ordering activity shall—

(1) Provide an RFQ to all BPA holders offering the required supplies or services under the multiple-award BPAs, to include a description of the supplies to be delivered or the services to be performed and the basis upon which the selection will be made;

(2) Afford all BPA holders responding to the RFQ an opportunity to submit a quote; and

(3) Fairly consider all responses received and make award in accordance with the selection procedures.

(B) The ordering activity shall document evidence of compliance with these procedures and the basis for the award decision.

(3) *BPAs for hourly-rate services.* If the BPA is for hourly-rate services, the ordering activity shall develop a statement of work for each order covered by the BPA. Ordering activities should place these orders on a firm-fixed price basis to the maximum extent practicable. All orders under the BPA shall specify a price for the performance of the tasks identified in the statement of work.

(d) *Duration of BPAs.* (1) Multiple-award BPAs generally should not exceed five years in length, but may do so to meet program requirements.

(2) A single-award BPA shall not exceed one year. It may have up to four one-year options. *See* paragraph (e) of this section for requirements associated with option exercise.

(3) Contractors may be awarded BPAs that extend beyond the current term of their GSA Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA's period of performance.

(e) *Review of BPAs.* (1) The ordering activity contracting officer shall review the BPA and determine in writing, at least once a year (*e.g.*, at option exercise), whether—

(i) The schedule contract, upon which the BPA was established, is still in effect;

(ii) The BPA still represents the best value (*see* 8.404(d)); and

(iii) Estimated quantities/amounts have been exceeded and additional price reductions can be obtained.

(2) The determination shall be included in the BPA file documentation.

(3) If a single-award BPA is established, the ordering activity contracting officer's annual determination must be approved by the ordering activity's competition advocate prior to the exercise of an option to extend the term of the BPA.

[76 FR 14553, Mar. 16, 2011]

#### 8.405-4 Price reductions.

Ordering activities may request a price reduction at any time before placing an order, establishing a BPA, or in conjunction with the annual BPA review. However, the ordering activity shall seek a price reduction when the order or BPA exceeds the simplified acquisition threshold. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order or BPA.

[76 FR 14555, Mar. 16, 2011]

#### 8.405-5 Small business.

(a) Although the mandatory preference programs of Part 19 do not apply, orders placed against schedule contracts may be credited toward the ordering activity's small business goals. For purposes of reporting an order placed with a small business schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. Ordering activities should rely on the small business representations made by schedule contractors at the contract level.

(b) Ordering activities may consider socio-economic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business schedule contractor(s). GSA Advantage! and Schedules e-Library at <http://www.gsa.gov/fss> contain information on the small business representations of Schedule contractors.

(c) For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

#### 8.405-6 Limiting sources.

Orders placed or BPAs established under Federal Supply Schedules are exempt from the requirements in part 6. However, an ordering activity must