

PART 11
SOLICITATION POLICIES

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11.1 USE OF SOURCES.

POLICY: BPA shall generally satisfy requirements for supplies and services from or through the sources and publications listed in 11.1.1 through 11.1.6 in descending order of priority before using commercial sources for supplies and services.

11.1.1 Excess property.

POLICY: BPA shall use excess property in fulfilling its requirements and those of its cost-reimbursement suppliers when BPA inventories are not available, and it is cost effective to utilize excess property. Excess personal property is any personal property under the control of a Federal agency that is not required for its needs.

11.1.2 GSA stock items.

POLICY: GSA is a non-mandatory source of supply for items listed in the GSA Supply Catalog. Unless the stock items are the best buy, price and other factors (including the time and effort to do so) considered, purchase shall be made in the open market.

11.1.3 Federal Supply Schedules.

(a) **POLICY:** Federal Supply Schedule (FSS) contracts are not required sources of supply for BPA. Unless a FSS contractor offers the best buy, price and other factors considered, acquisitions shall be made in the open market. As clearly stated in 12.8.2, the determination that the purchase is the best buy for BPA shall be documented.

(b) **INFORMATION:** The GSA Federal Supply Schedule program provides Federal agencies with a simplified process for obtaining commonly used supplies and services at prices associated with volume buying.

(c) **INFORMATION:** Copies of schedules may be obtained by completing and mailing GSA Form 457, FSS Publications Mailing List Application, to the GSA, Centralized Mailing Lists Services (7CAFL), 4900 Hemphill Street, P. O. Box 6477, Fort Worth, Texas 76115, telephone number (817) 978-5215. Copies of GSA Form 457 and the GSA publication titled "GSA Supply Catalog" (which includes a listing of schedules and information on the use of schedules) may also be obtained from that address, or through the on-line GSA FSS Publications Ordering service available at its Internet address <http://www.fss.gsa.gov/>.

11.1.4 Federal Prison Industries.

(a) **INFORMATION:** Federal Prison Industries, Inc. (FPI), also referred to as UNICOR, is a self-supporting, wholly owned Government corporation of the District of Columbia. It provides training and employment for prisoners confined in Federal correctional institutions through the sale of its products and services to Government agencies. An on-line catalog may be accessed through the UNICOR Internet homepage address at <http://www.unicor.gov/>.

(b) **POLICY:** BPA shall purchase required supplies of the classes listed in the Schedule of Products made in Federal Penal and Correctional Institutions at prices not to exceed current market prices. COs may elect not to utilize UNICOR products if they are concerned about employee safety, or if BPA employees may be subjected to significant harassment during inspection activities.

(c) **POLICY:** BPA is encouraged to use the facilities of FPI to the maximum extent practicable in purchasing (1) supplies that are not listed in the Schedule, but that are of a type manufactured in Federal penal and correctional institutions, and (2) services that are listed in the Schedule.

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(d) **INFORMATION:** The following list includes some of the items that BPA purchases from UNICOR. However, if quality or service problems are encountered, deviations may be obtained from the HCA.

- (1) Printed and Embossed metal signs.
- (2) Steel shelving.
- (3) Furniture.
- (4) Grounding cables.

11.1.5 Purchases from the Blind and other Severely Handicapped.

(a) **POLICY:** BPA is not subject to the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c). However, as a matter of policy, BPA implements the spirit of the Act whenever BPA's best buy objective can be met through AbilityOne sources. The CO may elect not to do so and shall document the reasons in the contract file.

(b) **INFORMATION:** The program implementing the Javits-Wagner-O'Day Act is called AbilityOne. Points of contact and a list of available products and services are provided at the following Internet site: <http://www.jwod.com>. Often GSA stocks these products. COs may place orders directly to GSA for these products.

11.1.6 Defense Logistics Agency.

POLICY: The Defense Logistics Agency (DLA) is responsible for ensuring that Federal agencies are supplied with their fuel requirements. However, it may not always be to BPA's advantage to utilize DLA contracts in filling its fuel needs, as CO's may be able to obtain better prices and services through local competition. CO's may obtain fuels through normal competitive purchasing procedures on the open market, or through DLA as deemed appropriate. The HCA has authorized an exemption from FPMR-101-26.602, which requires use of DLA contracts.

11.2 UTILITY SERVICES.

11.2.1 Definitions.

INFORMATION: As used in this part and elsewhere in the BPI:

"Commercial utility services" are those utility services, both regulated and unregulated, acquired without obligation to BPA except for services received, for which a written, bilateral agreement or contract with unique terms is neither required by the utility nor reasonably necessary for sound business reasons. This includes ordering, receiving, modifying, terminating, and paying at pre-established rates in the manner commonly used by the utility in its normal course of business dealings with similar customers and transactions.

"Utility services" are services such as the furnishing of electricity, telephone, gas, water, steam and sewerage that are available to the general public and performed by governmental entities or private companies. Utility services are ordinarily subject to governmental regulation. The term also includes services such as removal or disposal of garbage, rubbish, and trash that are performed on a contractual basis, which may or may not be subject to government or public regulation.

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11.2.2 Acquisition of Utility Services.

POLICY: Unless otherwise included in a lease or other established contract by or on behalf of BPA, utility services shall be acquired, to the maximum practicable extent, as "commercial utility services." Commercial utility services shall be acquired by program personnel responsible for ordering or arranging such services. If a bilateral agreement or contract with unique terms is necessary, then a CO with appropriate service authority shall execute the agreement. See Part 2.3.2(d).

11.2.3 Coordination of utility service requirements.

INFORMATION:

Certain utility services require coordination, and in some cases, ordering by other BPA organizations.

11.2.3.1 GSA-owned facilities.

GSA generally acquires all utility services for GSA-owned facilities. When GSA designates BPA as the building manager, BPA may arrange for and acquire utility services. All requests for such utility services shall be directed to Office Facilities.

11.2.3.2 BPA-owned facilities.

Acquisition of utility services for BPA-owned facilities shall generally be accomplished by the purchasing activity that supports the benefiting BPA business line organization.

11.2.3.3 BPA leased facilities.

BPA's Real Property Services is responsible for all leasing of facilities, office, and special purpose. A lease may include some or all utility services for the facility. Requests for utility services at BPA leased facilities shall be coordinated with Real Property Services. Those utility services not acquired by Real Property Services as a part of a lease shall generally be accomplished by the purchasing activity that supports the benefiting BPA business line organization.

11.2.3.4 GSA Federal Telecommunications Service (FTS) long distance service.

Telecommunication Services is responsible for coordination and order placement of GSA Federal Telecommunications Service (FTS) circuits and calling cards. Requests for acquisition of such services shall be directed to Telecommunication Services.

11.3 PUBLICIZING BPA'S PURCHASING PLANS.

(a) **POLICY:** Buying offices shall, at least annually, publicize a summary of the types of goods or services that it plans to purchase in the following twelve month period. Publishing shall be in a manner which will advise the market of BPA's requirements.

(b) **INFORMATION:** This annual publication is in accordance with 16 U. S. C. 832g, which requires BPA to provide public notice of its anticipated requirements in order to offer an opportunity for competition. Additional publicizing of specific transactions may be made by any suitable method that provides potential suppliers a reasonable opportunity to present information concerning their goods, services, and capacity to the CO. Suitable methods of publicizing BPA's planned purchases include, but are not limited to:

- (1) Supplier fairs;

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- (2) Advertisements in local newspapers or trade publications;
- (3) Written announcements mailed to potential suppliers and displayed in public areas; and
- (4) Internet websites, when the use of a website has been authorized for use by the HCA and Sourcing Services Manager or their designated representative and the website has been pre-approved by the OCIO. Internet websites may not be used to publicize BPA needs for IT hardware, software, or services, or other critical and sensitive goods or services.

11.4 MARKET INFORMATION.

(a) **POLICY:** The CO shall ensure that sufficient information is obtained to determine the optimal combination of quality, price, delivery and source reliability necessary for a business-like source selection decision.

(b) **INFORMATION:** Market information is data which is collected so that the purchasing team may become familiar with the products, services, and suppliers, including the quality, price and delivery and dependability of the firms in the markets in which they are purchasing. The information is used to understand the commodity and service markets and to select qualified sources. There are two basic types of market information:

- (1) General information, which is obtained through review of publications, routine contacts with suppliers, attendance at trade fairs, and other informal means; and
- (2) Specific information, which is obtained for a specific transaction through direct contacts with suppliers.

(c) **INFORMATION:** Methods of obtaining market knowledge include:

- (1) Attending supplier presentations;
- (2) Supplier visits to BPA sites;
- (3) Visits to supplier locations;
- (4) Professional organization meetings, conferences and training sessions;
- (5) Publications reviews;
- (6) Library research;
- (7) Discussions with other organizations buyers;
- (8) Attendance at trade and industry shows and presentations;
- (9) Internal BPA sources, such as program technical staff, subject matter experts, contract oversight staff, materials management staff, etc.; and
- (10) Supplier performance and information file.

(d) **INFORMATION:** COs should encourage sales representatives to make presentations to BPA contracting and program personnel, or otherwise provide information concerning supplies or services for which BPA has, or will have, a significant requirement. Firms that have previously submitted information should be evaluated during the market research process for a specific product or service that they regularly sell, unless the number of such firms would render such

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consideration impractical. Such presentations shall normally be limited to announced time frames to make the best use of BPA's time.

(e) **PROCEDURE:** COs may use Standard Form 330, Architect-Engineer Qualification, Parts I and II, to obtain market information for architect-engineering and related services.

(f) **INFORMATION:** The time and expense devoted to obtaining market information shall be commensurate with the value to BPA of the supplies or services being procured.

11.4.1 Draft Specifications.

(a) **POLICY:** The use of draft specifications is encouraged to provide potential suppliers the opportunity to respond with their recommendations for approaching the purchase in the most economical fashion to meet BPA's needs.

(b) **PROCEDURE:** The CO, in coordination with the program office, may submit draft specifications for a needed product or service to potential suppliers. A key element in this process is scheduling enough time to issue draft specifications in advance of the actual solicitation of offers. This should improve the quality of the specification by making it reflect actual market and competitive conditions, and shorten the period of time needed between the issuance of the solicitation and the award of the contract. Responses received are for BPA's information only. BPA is under no obligation to respond to commenting firms concerning their submissions.

(c) **INFORMATION:** COs and program offices should be alert to the possible creation of an organizational conflict of interest (see 3.4) if potential suppliers suggest specification changes which only they are able to meet.

11.4.2 Supplier Development.

(a) **POLICY:** It is in BPA's interest to have a strong supplier base. The use of developmental contracts is encouraged to help strengthen the supplier base.

(b) **INFORMATION:** COs may, for valid business purposes, or to test the capabilities of new or preference program suppliers, reserve a portion of specific requirements for such businesses. Doing so may result in multiple contracts; one for the majority of the requirement, and the others for a small portion of the requirement. Such a strategy should be planned with the participation of the requesting office.

11.4.3 Protecting Agency Critical Program Information

(a) **POLICY:** It is BPA policy to protect agency Critical Program Information (CPI). Contracting Officers, in cooperation with the requisitioning organization, may obtain written assurance from prospective offerors that any CPI provided to the offeror during the market research phase, solicitation of offers, or subsequent contract performance, will be safeguarded.

(b) **INFORMATION:** Critical Program Information, as defined in BPAM 1080 and 1081, must be safeguarded against loss, misuse, compromise, unauthorized access, or modification, by the originating organization and any other BPA organization that has a business need to distribute the information. Contractors who must have access to CPI in order to effectively respond to a request for quotes or offers, or during contract performance, may be asked to affirm in writing that they will comply with BPA policy and procedures to safeguard CPI. Such affirmation may be obtained through a non-disclosure agreement (NDA), according to either the requisitioner's or Supply Chain Services' organizational Operations Security Plans. Unless information is

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specifically unmarked as CPI at a later date, the requirements for protection and non-disclosure obligation should be deemed permanent.

(c) **PROCEDURE:** If an NDA is appropriate and has not already been signed by prospective offerors during the market research phase, the Contracting Officer may contact General Counsel for an NDA template to send to prospective offerors prior to issuing a solicitation to the offeror. The agreement may be modified to address the specific nature of the information or other program needs. The CO may alternatively use an NDA approved and provided by the requisitioning organization.

(d) **PROCEDURE:** COs shall coordinate with the requisitioning organization and General Counsel to provide disposition instructions to the successful contractor throughout the market research, solicitation, and contract performance, and post contract completion. Disposition instructions after contract completion shall be commensurate with the originating office's determination of the continuing sensitive or critical nature of the information.

(e) **PROCEDURE:** In the event of a Contractor breach of the NDA, the Contractor shall contact the CO, per the NDA. The CO shall immediately notify the BPA Security and IT organizations to identify and initiate prompt remedial action.

11.5 CONTRACTING OFFICER ASSESSMENT OF RISK.

INFORMATION:

(a) The CO is responsible for assessing the various risks involved in proposed contracts when considering the type of solicitation technique to use. When the CO prepares a contract or a solicitation, the CO is in essence apportioning the risks of the contract performance between BPA and the supplier. If more of the risk is borne by the supplier, the contract price will include some unspecified allowance for the assumption of the risk. If more of the risk is borne by BPA, the initial price may decrease, but the costs associated with poor performance will increase if the supplier's performance is inadequate. The CO must attempt to balance the risk so that neither party bears a disproportionate share of the risk while at the same time attempting to keep BPA's total cost reasonable. The CO should consider factors such as those shown below when planning the purchasing strategy. The CO may also utilize a strategy panel to assist with the assessment of risk.

- (1) Should this contract be a fixed-price or a cost type contract?
- (2) What is the degree of confidence in the quality of the technical requirements?
- (3) Should bonds be required of the supplier?
- (4) Is the product or service commercially available, or is this a BPA specification?
- (5) Should insurance be required of the contractor?
- (6) Are hazardous materials or wastes involved or generated?
- (7) Are work or safety hazards identified and all necessary safety requirements described in the statement of work? (See BPI 15.2)
- (8) Is a system of records on individuals involved in the statement of work?
- (9) How experienced in the effort are the potential suppliers?
- (10) Are patents or copyrightable material likely to be developed?

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- (11) Are there potential organizational conflicts of interest?
- (12) Does this contract involve a combination of supply, service, and construction work?
- (13) Should liquidated damages be required?
- (14) What is BPA's ability to forecast resources and or costs with confidence?
- (15) Is performance on a federal site or reservation?
- (16) What is the possibility of work needing to be suspended?
- (17) Have we experienced late performance, excessive rework or delays with similar work?
- (18) Is there a history of changes or differing site conditions with similar work?
- (19) Are there specific environmental concerns?
- (20) Is the use of recycled materials possible?
- (21) What is the appropriate FOB location?
- (22) What are the property requirements (BPA furnished, contractor acquired, contractor property system reviews, insurance requirements for property, etc.)?

(b) The CO should consider the opportunity to provide either or both negative and positive incentives in contracts. Positive incentives include bonuses for earlier delivery or increased quality, while negative incentives include deductions from the contract price for late delivery, incomplete shipments, or lower than desired quality. When such incentives are used, the CO should ensure that the supplier clearly understands the potential impacts.

11.6 COMPETITION.

POLICY:

(a) It is BPA's policy to obtain meaningful competition in its purchases. Competition is a term used to describe the interaction of suppliers in a marketplace when they are attempting to maximize their position. While the comparison of competing firms is a major tool for the improvement of quality in relation to cost, BPA's standard for competition is to obtain meaningful competition, not full and open competition. Meaningful competition means the comparison, on a transaction-by-transaction basis, of offers for products or services from two or more firms that the CO determines, in his/her sole judgment, will provide BPA the best buy, as elsewhere defined in BPI 1.1. After reviewing the marketplace to determine the firms best qualified to meet BPA's needs, the products or services of two or more firms are compared to assess the relative merits of awarding a contract to meet a particular BPA requirement.

(b) While the assessment of competing firms is an important tool, it should not be expanded beyond the point where a payback in terms of time and expense is reasonably foreseeable. Such comparison does not necessarily require direct contact, provided the information required to make the comparison is available from sources such as recent competition, the marketplace, or others. Therefore, COs shall compare only that number of qualified firms which is sufficient to balance time and expense with the benefit sought in a particular contract. This is the BPA implementation of DOE Order 542.1

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11.7 NONCOMPETITIVE TRANSACTIONS.

11.7.1 Purchases not requiring competitive consideration.

11.7.1.1 No Written Explanation or Citation Required.

POLICY: The following authorities and conditions permit purchases without competition. No written explanation is required for:

- (a) Purchases less than \$10,000;
- (b) Subscriptions to periodicals (under \$10,000);
- (c) Federal Prison Industries (UNICOR)--18 U.S.C. 4114;
- (d) Qualified AbilityOne (see 11.1.5) Nonprofit Agencies for the Blind or other Severely Handicapped--41 U.S.C. 46-48c;
- (e) Government Printing and Binding--44 U.S.C. 501-504, 1111;
- (f) Purchasing from other Federal agencies, including 8(a) contracts awarded to the SBA, and its contracts with specific firms; and
- (g) When acquiring utility services, circumstances may dictate that only one contractor can furnish the services; or when the contemplated contract is for construction of a part of a utility system and the utility company itself elects to work on the system. (See 11.2).

11.7.1.2 Citation only Required.

POLICY: The following authorities and conditions permit purchasing from specific sources. A written citation of the appropriate BPI reference from this subpart and other essential identifying data shall be noted on the Purchase Request and/or the Documentation of Award Decision (see 12.8.2) by the CO to clearly indicate the reason for the source selection.

- (a) Repair parts, accessories, supplemental equipment or services required for supplies or services previously furnished or contracted for which are available from only one contractor.
- (b) Required by law or Executive Order.
- (c) The entity has the responsibility to manage the property or resource to be affected by the services performed.
- (d) Contracting directly with firms certified as eligible under the SBA 8(a) program.
- (e) BPA standard items, when a Business Line Vice President or equivalent level manager has determined in writing that BPA must standardize the use of the item, and that determination is available for review by the HCA.
- (f) Agreements with nonprofit research organizations such as the electric Power Research Institute (EPRI) may be made without supporting written explanation for the following purposes. However, a written citation of the appropriate BPI reference from this section and other essential identifying data shall be noted on the Purchase Request and/or the Document of Award Decision (see 12.8.2) by the CO to clearly indicate the reason for the unique source purchase, noting one or more of the following:

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- (1) Projects where the organization provides co funding to cover a portion of the direct project (subcontract) costs;
- (2) Extensions of and additions to existing or planned projects;
- (3) Work to be performed by test centers, including testing and other services normally provided to members by these facilities;
- (4) Training conducted by the organization or its contractor(s) related to its own technologies or software;
- (5) Agreements for BPA to serve as a "host" utility for a research project; and/or
- (6) Agreements for other purposes will require an explanation.

11.7.1.3 Explanation required.

POLICY: The following situations permit purchase without competitive consideration, but the contract file shall be documented as described in each instance below:

- (a) Establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center. The written explanation shall include identification of the source, a discussion of how the transaction will develop or maintain an essential capability, and why the source is considered to be an essential capability; or
- (b) When other parties have offered BPA an opportunity to participate in specific projects on a cost - sharing basis, and the sponsor has arranged for a substantial portion of the required funding for the entire project. A copy of the proposal and the total project budget shall be attached to the PR. In addition, a memorandum stating the total cost of the project and the approved BPA share and the benefits which will accrue to BPA as a result of participation in the project is also required. This exemption does not apply to projects which are initiated by BPA.

11.7.2 Unique Source Purchasing

(a) **INFORMATION:** Unique source purchasing is the purchasing of supplies or services from the only feasible source which can meet BPA's requirements. When using unique sources, no other sources need be considered.

(b) **POLICY:** The CO is responsible for including an explanation of the nature of the unique source, and why other sources were not considered, in the contract file.

11.8 SELECTING FIRMS TO SOLICIT.

(a) **POLICY:** BPA will normally solicit offers only from suppliers who, in the judgment of the CO, have the capability and willingness to perform the contract in a manner which will provide the best buy for BPA. However, this alone does not ensure that a firm will be solicited for a specific purchase. BPA's or other parties' experience with the firm's quality, safety record, delivery and completeness of effort should be given major consideration, as these are indicators of capabilities and the willingness to perform.

(b) **POLICY:** The list of potential suppliers for a particular supply/service should be no larger than necessary, in the CO's judgment, to obtain an adequate level of competition among qualified suppliers. The complexity of the process used to select firms to be solicited will be determined by the complexity of the supply/service being sought. It could range from simple assessment of the

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market by the CO and the decision to solicit from one firm, to a pre-solicitation questionnaire sent to a large number of firms. The CO should select the least costly administrative procedure which can achieve the best buy.

(c) **POLICY:** BPA will do business with responsible and reputable firms and individuals. COs must obtain HCA approval prior to soliciting or making award greater than \$50,000 to any firm or individual listed on the Excluded Parties List System (EPLS). Firms and individuals who are delinquent on a Federal debt, or have been debarred or suspended by the Federal Government are identified in the EPLS. COs shall check this website <http://www.epls.gov/> to verify prospective offeror's status. See Part 26 for purchase card holder instructions.

(d) **PROCEDURE:** Potential supplier's capabilities should generally be determined prior to solicitation, and may be accomplished by considering information obtained from (1) data on hand, including records on file and knowledge of purchasing and quality assurance personnel, (2) prospective suppliers, including financial information, production records, personnel records, use of questionnaires, and on-site inspection of facilities, (3) previous customers, (4) commercial sources such as banks, financial agencies, credit agencies, suppliers, and trade associations, and (5) publications such as credit ratings, trade and financial journals, and business directories. For purchases which are significant either in dollar value or in the critical nature of the requirement, information as to current workload and financial capacity should be verified.

(e) **PROCEDURE:** A brief description of the potential offerors considered shall be included in the Document of Award Decision. See 12.8.2.

11.9 REQUESTS FOR QUOTATIONS.

PROCEDURE:

(a) A request for quotations (RFQ) may be used to obtain information on prices and availability of goods and services. The RFQ is generally used when the CO expects to place an order as a result of the information received, but does not wish to bind the supplier at the time the quotation is received. It is generally useful for commercial goods and services, but may also be used for other goods and services. All of the terms and conditions to be included in any purchase which may result from the RFQ are to be included in the RFQ. Purchases resulting from RFQs may be placed by any purchasing method approved by Part 12.

(b) An RFQ may be either oral or written. Form BPA F 4230.02, Request for Quotations, may be used when issuing written RFQs.

11.10 REQUESTS FOR OFFERS.

PROCEDURE: Requests for Offers (RFO) are requests for offers to sell; responses to RFOs constitute offers from suppliers that the CO may accept and create a binding contract without further discussion. The order may be placed and documented in any manner of placing awards described in Part 12. This method will typically be used when the market controls the price and quality and the CO desires an offer from the supplier. The requirement may require some amount of discussion to clearly communicate BPA's needs. The CO must discuss all aspects of the transaction, including quality assurance, warranty, payment (see 22.6) and other significant aspects of the transaction that would be included in a written RFO.

11.10.1 Oral Requests for Offers.

PROCEDURE:

(a) An oral request for offers (RFO) may be used. The acceptance of the offer to sell generally will be made orally after evaluation of the information provided.

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(b) Oral RFOs are made by placing telephone calls or making personal visits to potential suppliers. No written solicitation document is produced. Purchase descriptions are communicated orally. Oral RFOs will generally be used when BPA is able to accept products and contract terms and conditions which are common in the market place. Oral solicitations are most commonly used when the CO understands the market, but must verify some aspect of the transaction, such as availability, price, near term market changes, or anticipated technical advances.

(c) Transactions exceeding \$500,000 shall be approved by the HCA before using this technique.

11.10.2 Written Requests for Offers.

PROCEDURE:

(a) When oral RFOs are not practical because of the complexity of the purchase description or BPA-required terms and conditions, written RFOs may be used for obtaining information from potential suppliers. Situations where a written solicitation is appropriate include: requirements where the work or services are complex, the specificity of the requirement is not clear, high dollar values are involved, and the items are unique or substantially modified from commercially available substitutes. RFOs may be issued on form BPA F 4220.36 -- Request for Offers and Award, and be accompanied by the purchase description and additional clauses which the CO believes are essential to adequately communicate BPA's needs and requirements. Amendments may be made using BPA F 4220.05, Amendment to Solicitation.

(b) For those purchases where it is impractical to expect BPA to award without negotiations, the RFO shall request only the level of detail necessary for BPA to quickly determine which offer presents the most potential for obtaining the best buy in fulfilling BPA's needs. In instances where the supplier's capabilities, approach or alternative approaches are of paramount importance in awarding the contract, the CO should provide instructions in the solicitation informing the offeror to address such concerns. It is important that the offeror be provided sufficient detail to be informed that it is requested to not only address their proposed solution to our requirement and their strengths as a firm in being able to provide a high quality solution to our requirement, but also to address those specific areas of importance to BPA.

11.10.2.1 Clause Usage Prescriptions.

PROCEDURE:

(a) The CO shall obtain the information required by clause 11-1, Type of Business Organization, during the solicitation process unless it was previously obtained and has been verified by the CO to be accurately recorded in the vendor file. This information may be necessary to determine whether the contractor will be required to obtain and provide its Taxpayer Identification Number (TIN) as a condition of payment (see 4.1.2 and 22.6). If written solicitations are issued to suppliers known to be domestic, paragraph (b) may be omitted, and the (a) designation removed from paragraph (a).

(b) The CO shall include clause 11-2, Submission of Offers, in all written RFOs. The CO shall include a clause similar to Alternate I to modify paragraph (b) when conducting a reverse auction.

11.10.2.2 Executive summaries of requests for offers.

POLICY: Requests for offers for a complex requirement should be accompanied by an executive summary. The purpose of the executive summary is to summarize the salient parts of the purchase and communicate important information.

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11.10.3 Reverse Auction Techniques.

(a) **INFORMATION:** COs and Requisitioners may collaboratively determine that purchase of certain goods or services is well suited to a reverse auction technique for acquiring pricing information. A reverse auction is executed by transmitting all relevant technical and instructional sections of the RFO to the offerors prior to the reverse auction, and then reserving pricing until a designated time and place when offerors participate in a real-time bidding process to indicate their best pricing.

(b) **POLICY:** COs may conduct reverse auctions to obtain a portion or all of suppliers' pricing information, as approved by the Tier II Purchasing Managers and the HCA. Electronic reverse auctions shall be conducted only through auction service providers that have been approved for use by the Tier II Purchasing Managers and the HCA.

11.11 PREPARING SOLICITATIONS.

(a) **POLICY:** CO's shall furnish appropriate information concerning a proposed purchase to solicited suppliers in a manner such that undue competitive advantage to one or more firms is not provided.

(b) **POLICY:** BPA will minimize the use of solicitations requiring elaborate proposals.

(c) **PROCEDURE:** COs should generally use simple processes with few terms and conditions when purchasing commercial products and services. COs generally should not add BPA-unique inspection, testing or warranty requirements to purchases of commercial goods and services.

11.11.1 Attributes of interest.

(a) **POLICY:** The CO, requisitioner, and other key technical personnel should jointly determine if there are unique or significant attributes of interest in the supplies or services being purchased which will be used to evaluate offers. If there are, the major attributes(s) should be published in the solicitation. Attributes of interest should be crafted so as to maximize the value of supplier creativity in responding to BPA's requirements, while ensuring that BPA obtains the quality and timeliness of goods or services it requires at reasonable total costs. Specific numerical weights for attributes of interest shall not be published. As specified in clause 11-3, Considerations in Making Awards, if other significant attributes of interest are discovered after the RFO is issued, the CO may base the award decision upon those attributes without notice to the suppliers.

(b) **INFORMATION:** The most frequently used approach toward describing the way BPA will evaluate offers is that the award will be based on the best buy after considering such criteria as (1) total costs to BPA (See 12.5.2), (2) past experience with the firms, (3) quality of the goods or services offered, and (4) others described in clause 11-3, Considerations in Making Awards. Offerors should consider all of BPA's requirements, as communicated through the statement of work or the specifications, as being important. This should encourage suppliers to emphasize how their firm can best meet BPA's needs rather than structuring an offer geared to predefined, rigid evaluation factors. Clause 11-3, Considerations in Making Awards, advises the supplier of this approach. The approach in this paragraph is preferred over those described elsewhere in this subpart.

11.11.1.1 Clause Usage Prescriptions.

PROCEDURE: COs shall include a clause similar to 11-3, Considerations in Making Awards, in all written solicitations. COs shall use the clause with its Alternate I when the CO determines that alternate or innovative proposals are to be encouraged. When using Alternate I, add the paragraph (d) of the Alternate to the basic clause. COs shall use the clause with its Alternate II when the CO determines that pricing information will be obtained through a reverse auction.

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When using Alternate II, add the paragraph (e) of the Alternate to the basic clause. If Alternate I is not used, re-number the paragraph from (e) to (d).

11.11.2 Additional Copies of Solicitations.

POLICY: At times, the CO may receive a request for a solicitation after the sources to be solicited have already been identified. Solicitations shall be furnished upon request. If the CO is unfamiliar with the requester's qualifications and there is not sufficient time to perform an evaluation without compensating benefit to BPA, the requester shall be advised that the solicitation is furnished for information only and that an offer is not solicited. If an offer is received from such firm, the CO is not obligated to consider it unless such action would be in the best interests of BPA (See 12.1.3). The reasons for not considering an offer shall be noted in the file. Offers from sources which were not solicited but who are known to be qualified may be considered for award at the discretion of the CO.

11.11.3 Pre-proposal Conferences.

(a) **INFORMATION:** A pre-proposal conference may be held to brief prospective offerors. These conferences may be used in complex purchases to explain or clarify complicated specifications and requirements.

(b) **PROCEDURE:** The CO shall decide if a pre-proposal conference is required and make the necessary arrangements, including:

- (1) Giving all firms who received the solicitation adequate notice of the time, place, nature, and scope of the conference;
- (2) Requesting firms to submit written questions in advance. Prepared answers can then be delivered during the conference; and/or
- (3) Arranging for technical and legal personnel to attend the conference, if appropriate.

(c) **PROCEDURE:** The CO or a designated representative shall conduct the pre-proposal conference, furnish all prospective offerors identical information concerning the proposed purchase, make a record of the conference, and promptly furnish a copy of that record to all prospective offerors. Conferees shall be advised that --

- (1) Remarks and explanations at the conference shall not qualify the terms of the RFO; and
- (2) Terms of the RFO remain unchanged as a result of the pre-proposal conference unless amended in writing.

11.11.4 Site Tours and Inspections.

PROCEDURE: When work is to be performed on a BPA site, the CO should make appropriate arrangements for prospective offerors to inspect the work site and to have the opportunity to examine data available to the BPA that may provide information concerning the performance of the work. Such data may include samples, logs, records, and plans of the work area including information regarding any utilities or Government supplies or services to be furnished during the contract. If it is not feasible for offerors to inspect the site or examine the data on their own, the CO should designate an individual who will show the site or data to the offerors.

11.11.4.1 Clause Usage Prescriptions.

PROCEDURE: If the CO determines that a guided site visit is not necessary, a clause similar to that at 11-5, Inspection of Premises, may be used. If the contract requires performance on BPA

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rights-of-way, use the clause with its Alternate I. If the CO determines that a guided site visit is necessary, a clause similar to that at 11-6, Site Tour, may be used. If the contract requires performance on BPA rights-of-way, use the clause with its Alternate I.

11.12 CHANGES IN REQUIREMENTS BEFORE RECEIPT OF OFFERS.

POLICY: When BPA modifies its requirements before receipt of offers, the CO shall notify the potential suppliers of the change. Notification may be either orally or in writing as appropriate for the circumstances.

11.13 DISCLOSURE OF INFORMATION.

POLICY:

(a) Discussions with prospective suppliers regarding a potential purchase and the transmission of technical or other information prior to beginning the solicitation process may be conducted by purchasing or technical personnel. Such personnel shall not furnish any information to a potential contractor, which alone or together with other information would be prejudicial to others. Information that is not prejudicial to others may be furnished upon request. However, when information is furnished to one prospective supplier, it should also be furnished to other known prospective suppliers when it is believed that they do not have access to the information.

(b) During the solicitation process only the CO or others specifically authorized by the CO shall transmit technical or other information and conduct discussions with prospective suppliers. Information shall not be furnished to a prospective contractor if, alone or together with other information, it may afford the prospective contractor an advantage over others. However, general information that is not prejudicial to others may be furnished upon request.

11.14 Management Review of Solicitations

POLICY:

(a) COs shall seek Chief Supply Chain Officer review of certain solicitations and contracts prior to issuance to offerors. The Chief Supply Chain Officer, or designee who possesses a CO Certificate of Appointment at or above the level held by the manager, shall conduct the management review. These reviews will be performed if the solicitation or contract meets one or more of the following conditions:

- (1) The solicitation or contract value is greater than \$5 million.
- (2) The purchase is deemed a high-risk acquisition, in terms of performance, delivery, dollars, or unique contract terms.
- (3) The purchase is deemed mission critical by the Requisitioner, Project Manager, Sourcing Services Manager, Chief Supply Chain Officer, or Administrator.

(b) The review manager shall consider the key elements of the purchase and ensure that the contents of the solicitation address those issues. If the manager finds that the solicitation or contract is lacking critical content to ensure the best buy objective and reduce risk to BPA, the manager shall advise to the CO as to how the issues should be addressed. The review and subsequent guidance may be in any written format, and placed in the file.

11.50 TEXT OF CLAUSES.

The following clauses are referred to in BPI Part 11:

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- 11-1 Type Of Business Organization.
- 11-2 Submission of Offers
- 11-3 Considerations in Making Awards
- 11-4 Reserved
- 11-5 Inspection of Premises
- 11-6 Site Tour

Clause 11-1 TYPE OF BUSINESS ORGANIZATION. (SEP 02)(BPI 11.10.2.1)

The offeror, by checking the applicable box, represents that-

- (a) It operates as / / a corporation incorporated under the laws of the State of _____, / / an individual, / / a partnership, / / a nonprofit organization, or / / a joint venture; or
- (b) It is a / / local, / / state, / / federally recognized Indian tribe, or / / other governmental entity, (*describe* _____); or
- (c) If the offeror is a foreign entity, it operates as / / an individual, / / a partnership, / / a nonprofit organization, / / a joint venture, or / / a corporation, registered for business in _____ (country) and / / does / / does not have an office or fiscal paying agent in the United States; or
- (d) It is / / a type of business organization not otherwise listed above (*describe* _____).

(End of clause)

Clause 11-2 SUBMISSION OF OFFERS. (Sep 98)(BPI 11.10.2.1)

- (a) Offers shall be valid for a minimum of ____ (CO fill in) days from the date offers are due.
- (b) All offers and resultant contracts are subject to the conditions set forth in this solicitation and the BPI. By submission of this offer, the offeror agrees to be bound to the Protest procedures specified in the BPI.
- (c) BPA may reject late offers. BPA reserves the right to not consider proposals from potential suppliers other than those solicited by the CO.

(End of Clause)

ALTERNATE I (SEP 02)

- (b) All offers and resultant contracts are subject to the conditions set forth in this solicitation and the BPI. By submissions of this offer, the offeror agrees to be bound by the pricing auction procedures of the (CO fill-in name of auction service provider), and to the Protest procedures specified in the BPI. BPA agrees to be bound by the pricing auction procedures of the (CO fill-in name of auction service provider) for those items specified in the Schedule of Prices as "Reserved for Auction". Prices for items other than "Reserved for Auction" are to be submitted with the initial proposal.

(End of Alternate I)

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Clause 11-3 CONSIDERATIONS IN MAKING AWARDS (Sep 98)(BPI 11.11.1.1)

(a) BPA is seeking offers that provide the best combination of attributes in order to select the "best buy" offer. Best buy will be determined by comparing such attributes of interest as total cost to BPA, technical and management features, relative quality and adaptability of supplies or services, the offeror's financial responsibility, skill, experience, record of business integrity and business honesty, ability to furnish repairs and maintenance services, the time of delivery or performance offered, past performance (including safety record), and whether the offeror has complied with the specifications or demonstrated capability to perform the statement of work. BPA may consider other attributes without notification to the offerors if review of the proposals or BPA program needs raise relevant new issues.

(b) BPA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(c) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party.

(End of clause)

Alternate I (Oct 93)

(d) Proposals offering innovative, cost-effective approaches to meeting BPA's needs from a technical, work performance, delivery, pricing or other standpoint which produce an improved result for BPA are encouraged. The proposer should detail the strengths which it possesses, and explain how they will be applied to the proposed contract in order to provide a high quality, cost-effective solution to our requirements.

(End of Alternate I)

Alternate II (SEP 02)

(e) In performing the technical evaluation, the BPA technical evaluators and the Contracting Officer will review all specifications submitted and determine which potential qualified suppliers are approved to take part in the pricing auction. Discussions with prospective suppliers regarding the purchase and the transmission of technical or other information prior to issuance, and during the solicitation process will be conducted only by BPA purchasing or technical personnel assigned to this project. Such personnel shall not furnish any information to a potential supplier that alone or together with other information would be prejudicial to others.

(End of Alternate II)

Clause 11-4 RESERVED

Clause 11-5 INSPECTION OF PREMISES. (SEP 98)(BPI 11.11.4.1)

Interested offerors should visit the site where the work is to be performed to ascertain the nature and location of services to be performed and the conditions which can affect the services or safe performance or the cost thereof. Failure to do so will not relieve offerors from responsibility for estimating properly the difficulty or cost of successfully performing the services. No formal tour/site visit is contemplated. Questions pertaining to the site should be addressed to:

(Name), Contracting Officer
(Address)
(City, State, ZIP)
(Phone)

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(End of Clause)

Alternate I (Oct 93)

Land rights obtained by BPA do not include permission to enter the property prior to the start of work. Offerors entering the property or adjacent property are liable for any suits or claims that may result from such entry.

(End of Alternate I)

Clause 11-6 SITE TOUR (Sep 98) (BPI 11.11.4.1)

Interested offerors should visit the site where the work is to be performed to ascertain the nature and location of services to be performed and the conditions which can affect the services or safe performance or the cost thereof. Failure to do so will not relieve offerors from responsibility for estimating properly the difficulty or cost of successfully performing the services. A formal tour and site visit is scheduled for (enter day, date, and time of tour). Contact the contracting officer identified below to register for this tour.

(Name), Contracting Officer
(Address)
(City, State, ZIP)
(Phone)

(End of Clause)

Alternate I (Oct 93)

Land rights obtained by BPA do not include permission to enter the property prior to the start of work. Offerors entering the property or adjacent property are liable for any suits or claims that may result from such entry.

(End of Alternate I)