Source Selection Guide

Version 1.0

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1.0 Discussion

This chapter supplements the primary acquisition regulations and policies contained in the references above and should be considered in the context of those references. This chapter covers the source selection process for Federal Acquisition Regulation (FAR) part 15 procurements. Under FAR part 15, the Department of Energy (DOE) typically uses the Source Evaluation Board (SEB) process. However, in some situations, a less-formal approach involving a Technical Evaluation Committee (TEC) may be appropriate. For the purposes of this chapter, references to SEB are understood to cover the TEC approach, as well.

1.1 The Source Selection Process. The FAR 15.2 source selection process starts with acquisition planning and culminates with lessons learned. Within each step of this process, many different activities occur. For example, preparation of the request for proposal (RFP) may include issuance of a draft RFP, as well as conducting an Industry Day and/or one-on-one meetings. Since each procurement is unique, the SEB has some flexibility in determining which activities are necessary for that procurement.

1.2 Source Selection Authority. The Secretary of Energy designated the Director, Office of Acquisition Management as Senior Procurement Executive (SPE) for DOE. In turn, the SPE delegates specific contracting authority (including dollar values) to each Head of the Contracting Activity (HCA). Within DOE, HCAs are senior management officials with cognizance over one or more procurement offices. Although the SPE retains source selection authority for all acquisitions exceeding $50 million, the various HCAs have source selection authority for actions valued at $50 million or less. HCA authority is re-delegable, as appropriate, following the procedures below.

1.2.1 Actions Valued at More than $50 Million. For actions exceeding $50 million, the HCA should submit a memo requesting designation of an individual as the Source Selection Official (SSO), along with a resume that contains name, title, experience (identifying any SEB, contracting, Contracting Officer's Representative (COR), and technical/program experience, with a discussion of involvement in contract-related matters), and training (identifying any procurement-related training). The memo should be sent to the SPE, with a copy to the Director, Field Assistance and Oversight Division, MA-621. In response, MA-621 will prepare the SSO designation memo, obtain the SPE's signature, and distribute the signed memo.

1.2.2 Actions Valued at $50 Million or Less. For actions less than or equal to $50 million, the Field Office Manager (or equivalent) should submit the request to the HCA. The request should include a resume that contains name, title, experience (identifying any SEB, contracting, COR, and technical/program experience, as well as involvement in contract-related matters), and training (highlighting any procurement-related training).

1.3 SEB Composition and Designation. The SEB should be tailored to the acquisition, assuring the ability to comprehensively evaluate proposals. SEB membership consists of a SEB chairperson, voting members, contracting officer , advisors, executive secretary, and *ex officio* members. The number of voting members usually ranges from three to five people. It is recommended that the contracting officer be a voting member. The number of non-voting members, which includes advisors and *ex officio* members, varies greatly based upon the complexity, dollar value and number of voting members assigned to the SEB. At minimum, each SEB shall include a cost advisor and legal counsel (either from headquarters or from field offices). Other areas where an advisor may be appropriate include: security, health and safety, human resources, finance, accounting, information technology, and intellectual property. Each SEB should have an executive secretary (non-voting member); this position is an excellent way to prepare an individual for an increased role on a future SEB. The roles and responsibilities of the SSO and the SEB members are described below.

1.3.1 Source Selection Official (SSO). Designated by the SPE for actions exceeding $50 million, and by the HCA for actions valued at $50 million or less (see section 1.2), the SSO is normally a senior program official at headquarters or a field office, who will:

- Appoint the SEB chairperson, the SEB members, advisors, and *ex officio* members via formal written memorandum. (For acquisitions greater than $50 million, the SEB composition must be coordinated with MA-621 prior to finalization);
- Ensure that the entire source selection process is conducted properly and efficiently;
- Review and approve the Acquisition Plan, the RFP, and the Source Selection Plan (SSP);
- Provide the SEB with the resources and guidance necessary for the evaluation process;
- Be briefed on the need to enter into discussions and establish a competitive range, if applicable;
- Request briefings and consultations with the SEB chair as required (including updates on all significant issues and the SEB's progress throughout the process);
- Participate in any aspect of the source selection process, such as reviewing proposals, reviewing draft reports, attending oral presentations (if the SSO attends one, he/she must attend all) etc., in order to assist in his/her final independent judgment/decision;
- Select the apparent successful offeror(s) after an in-depth and independent review and analysis of the SEB's evaluation, and performing a comparative assessment of the offeror(s); and
- Document the basis of the decision in the Source Selection Decision Document.

1.3.2 SEB Chairperson. Although the typical SEB Chairperson has a technical background, a contracting officer can also serve as SEB Chairperson. Charged with overall responsibility for the SEB's activities during the source selection process, the Chairperson will:

- Ensure all members receive SEB training, as well as other needed training;
- Lead and formulate the agenda for all SEB meetings;
- Manage the acquisition against the schedule;
- Work with senior program management to ensure that adequate personnel and other resources are available in a timely manner to meet the needs of the acquisition;
- Ensure that proper evaluation tools and procedures (and training on their proper use) are available to the evaluators and advisors;
- Lead the SEB members in developing the RFP and other major requirements documents;
- Lead the SEB members in the proposal evaluation, based on input from the advisors, to support the contracting officer's competitive range determination, if applicable;
- Ensure that the evaluations have been conducted properly and in adequate depth;

- Chair consensus boards, identifying strengths and weaknesses in proposals based upon RFP evaluation criteria, as well as their significance, and assigning ratings with supporting rationale;
- Lead preparation of trade-off recommendations consistent with the evaluation criteria, using the SEB's evaluation of strengths, weaknesses, etc., as requested by the SSO;
- Ensure source selection decisions are documented fully and contemporaneously;
- Attempt to resolve any reservations, concerns, or disagreements of individual SEB members. If resolution cannot be obtained, ensure that any dissenting opinions are documented and presented to the SSO;
- Give briefings or consultations, as required by the SSO and *ex officio* members;
- Report any events that affect the procurement schedule as soon as possible to obtain approval for revised milestone schedules as necessary;
- Lead SEB members in reviewing and approving all discussion questions prior to submission to the contracting officer for action;
- Lead development of initial and final SEB reports, as applicable; schedule and conduct presentations to the SSO;
- Coordinate documents for HCA and business clearance review; and
- Ensure that SEB lessons learned are captured.

1.3.3 SEB Voting Members. As the primary evaluators and participants in the source selection process, the SEB members will:

- Assist in the development of the Acquisition Plan unless completed by an Integrated Procurement Team (IPT) or similar group;
- Assist in the development of the RFP;
- Participate in pre-solicitation meetings/conferences, site tours and pre-proposal conferences as applicable;
- Assist in the development of answers to questions received from interested parties;
- Independently evaluate each proposal in accordance with the RFP evaluation criteria and the SSP, including input from advisors (to include any dissenting opinions);
- Participate in oral presentations if applicable;
- Assist in the development of questions for offeror determined to be in the CR, if a CR is determined, and participate in discussions if they are held face-to-face;
- Participate, as necessary, in briefing the SSO;
- Participate in the technical evaluation of cost proposals, as required;
- Deliberate and develop a consensus among the SEB members of the strengths, weaknesses, deficiencies, and rating of each proposal;
- Assist in the documentation of evaluations and lessons learned; and
- Participate in debriefings, as required.

1.3.4 SEB Advisors. As non-voting members, SEB advisors provide subject matter expertise and input. SEB advisors will:

- Review designated aspects of proposals and provide advice and assessments in their respective areas of expertise, as requested;
- Recommend areas of the offeror' proposals that should be further analyzed, evaluated, or studied;

- Review questions and findings and assist the SEB/contracting officer in preparation for discussions and/or responding to questions received on the RFP; and
- Assist the SEB in the preparation of written reports or other information related to the evaluation.

1.3.5 Contracting Officer. Serving as the primary procurement authority, the contracting officer will:

- Advise and support the SSO and SEB as needed;
- Protect the integrity of the process;
- After release of the RFP, serve as focal point for inquiries from actual or prospective offerors (FAR15.201(c)(1)
- Issue the RFP, as well as any amendments to the RFP;
- After receipt of proposals, control communications with offerors (FAR 15.201(c)(2)
- Determine the competitive range (FAR 1.204-1(b) when award is not based on initial submission, with input from the SEB and concurrence from the SSO, and notify the offerors accordingly;
- Conduct and lead clarification with offerors in the competitive range, ensuring the discussions are meaningful (FAR 15.202(a)(2)ii (
- Perform or oversee the evaluation of cost (FAR 15.404-2)
- Responsible for obtaining information adequate to establish price reasonableness and/or determine cost realism (FAR 15.402(b) (
- Purchase goods and services only at fair and reasonable price (FAR 15.202(d)
- Request proposal revisions as appropriate;
- Perform all the required checks (Equal Employment Opportunity and foreign ownership, control, or influence determination, etc.), make the responsibility determination, verify size status and compliance with the limitation of subcontracting when required;
- Make all necessary notifications (successful, unsuccessful and congressional) and coordinate the press release;
- Award the contract(s) after receiving all of the appropriate reviews and approvals;
- Lead the debriefings, document the file as required and provide all requested information to legal counsel if a protest is received;
- Assist in the documentation of lessons learned; and
- Ensure that all documentation and Source Selection Information is filed appropriately.

1.3.6 SEB Executive Secretary. As principal assistant to the SEB chairperson, the executive secretary will attend all necessary meetings, and accomplish such tasks as:

- Obtain secure work areas for conduct of SEB activity;
- Develop and implement procedures to control access to SEB work areas, and the safeguarding of SEB proceedings and data;
- Obtain supplies needed by the SEB;
- Obtain signed confidentiality and conflict of interest certificates from all SEB members, advisors and *ex officio* members (see section 1.9.1);
- Arrange for the preparation, reproduction, control and distribution of all material relating to the activity of the SEB;

- Obtain and distribute applicable procedures, policies, instruction, etc., to SEB members, advisors and ex officio members, as directed;
- Follow-up on action items assigned to SEB members to ensure the procurement schedule is maintained;
- Maintain minutes of SEB meetings as appropriate, obtain the chairperson's approval and distribute copies to all SEB members and others as directed by the SEB Chairperson;
- Assist with logistical and administrative matters involving tours, conferences and oral presentations;
- Assist in preparing and assembling any reports and presentations;
- Assist in timely, accurate documentation of source selection decisions and preserving records to meet records management requirements;
- Schedule debriefings, and dispose of all excess material with concurrence of SEB Chairperson, contracting officer, and legal counsel;
- Assist with the filing of all documentation and Source Selection Information. If necessary, forward the complete file to the cognizant procurement office for permanent retention and contract administration; and
- Survey the area where SEB activity occurred and arrange for the return of equipment and materials as appropriate.

1.3.7 *Ex Officio* Members. *Ex officio* participants are included by virtue of their official position. Although they are non-voting, they can officer advice and guidance to the SEB. As such, information can be shared with them on a need-to-know basis.

1.3.8 Non-DOE Evaluators. Normally, evaluations of proposals shall be performed only by DOE employees. In certain cases, however, Federal employees from other agencies may be used to provide special expertise. In still other cases, evaluators or advisors who are not Federal employees, including employees of DOE management and operating contractors, may be used where necessary. When non-Federal employees are used as evaluators, they may only participate as members of technical evaluation committees. They may not serve as members of the SEB or equivalent board or committee.

1.3.8.1 Determination on availability of DOE personnel. For every competitive procurement, a determination must be made on whether sufficient DOE personnel with the necessary training and capabilities are available to evaluate proposals (see FAR 37.402-3). If it is determined that qualified personnel are not available from DOE, but are available from other Federal agencies, a determination to that effect shall be made. Similarly, in the event that qualified personnel are not available within the Federal workforce, a determination to that effect shall be made. For SEB procurements, this determination should accompany the memorandum appointing the technical evaluation committee by the SSO. For all other procurements, the Contracting Officer will make this determination.

1.3.8.2 Requirements for decision to employ non-Federal evaluators or advisors. Any decision to employ non-Federal evaluators or advisors, in SEB procurements must be made by the SSO with the concurrence of the HCA. In non-SEB procurements, the decision shall be made by the senior program official or designee with the concurrence of the HCA. In a case where multiple solicitations are part of a single program and would call for the same resources for evaluation, a class determination to use non-Federal evaluators may be made by the SPE.

1.3.8.2.1 Solicitation Provision. Where such non-Federal evaluators or advisors are to be used, the solicitation shall contain a provision informing prospective offerors that non-Federal personnel may be used in the evaluation of proposals.

1.3.8.2.2 Non-disclosure agreement (NDA). An NDA substantially the same as that in Attachment 1, must be signed before the non-Federal evaluator or advisor can access the proposal. Care should be taken that the required handling notice (see Attachment 2) is affixed to a cover sheet attached to the proposal before it is disclosed to the evaluator or advisor. In all instances, such persons will be required to comply with NDA requirements, as well as those involving Procurement Integrity, as detailed in the next section.

1.4 Confidentiality and Conflict of Interest Certifications. To safeguard the integrity of the SEB process, it is DOE's long-standing practice for SEB members to sign a confidentiality and a conflict of interest certification. Templates for both certifications are available in the STRIPES Library.

1.4.1 Confidentiality and Safeguarding. All personnel involved in a Source Selection must safeguard source selection information and must not disclose such information to anyone outside the membership of the SEB. Contractor bids and proposals shall be safeguarded from unauthorized disclosure throughout the process (see FAR 3.104-4). Information received in response to a Request for Information (RFI) shall be safeguarded from unauthorized disclosure (see FAR 15.207(b)). Any Confidentiality Certification must contain the following language:

> "These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive Orders and statutory provisions are incorporated into this agreement and are controlling."

1.4.2 Conflict of Interest. Government procurement matters must be conducted in a manner beyond reproach, with complete impartiality and preferential treatment to none. Impeccable standards of conduct are a must. As such, all personnel involved in an SEB are required to avoid strictly any conflict of interest or even the appearance of a conflict of interest (see FAR 3.101-1).

1.5 Source Selection Training. The Office of Acquisition Management and the Office of General Counsel developed a course entitled "Source Selection for the SEB." This course is approximately 12 hours in length and is conducted at the various DOE offices. The training can be scheduled, either before RFP development or prior to receipt of proposals (or both), by contacting the Director, Field Assistance and Oversight Division, MA-621.

1.6 Exchanges with Industry. Exchanges with industry before receipt of proposals can promote early exchange of information: (1) in early acquisition planning to facilitate shaping the acquisition to the latest industry information or trends; (2) prior to the release of the solicitation or (3) after release of the solicitation but prior to receipt of proposals. FAR 15.101 identifies ways of promoting such exchange (see 1.11.1). While engaging in any of these activities, remember to: (1) release information on a fair and equitable basis consistent with regulatory and legal restrictions; (2) establish clear ground rules for the conduct, timing, and documentation of conferences and meetings; (3) protect any proprietary information you may be given during this process; and (4) request legal advice if questions arise about any exchanges.

1.6.1 Pre-Solicitation Conferences, One-on-One Meetings, Pre-Proposal Conferences, and Site Tours. Five factors usually drive the need for such exchanges: (1) project complexity; (2) the need to share additional background data; (3) exceptional demands on a contractor's capability; (4) unavoidable ambiguity in requirements; and (5) access to classified material or facilities. Arrangements for pre-solicitation conferences and one-on-one meetings should be publicized in much the same manner that the RFP would be publicized – i.e., by posting to the same government-wide point of entry (GPE). The goal is to ensure that all interested parties/potential offerors have an opportunity to respond or attend. Minutes of any conferences should be captured and may be posted to the GPE.

1.6.1.1 Pre-Solicitation Conferences may be held. Prospective offerors should be advised that, notwithstanding information provided at the pre-solicitation conference, they are to rely solely on the information contained in the final RFP. Goals of a pre-solicitation conference include: (1) advising industry of the Government's requirements, (2) gain an understanding of industry's capabilities vis-à-vis meeting the Government's needs, and (3) obtain industry's input on the most effective means of meeting the Government's needs.

1.6.1.2 One-on-One Meetings with prospective offerors and other appropriate stakeholders may be conducted during the Government's acquisition planning phase, after issuance of a draft RFP, or in conjunction with the pre-solicitation conference. It is recommended that one-on-one meetings be held *after* the release of a draft RFP. Information appropriate to share includes: (1) summary of the work or a draft SOW, (2) anticipated contracting strategy (contract type, incentives, etc.), and (3) specific areas in which the Government desires input. Key areas of interest to the Government during one-on-one meetings include identifying: (1) any restrictive specifications, and (2) any barriers to competition. Care must be taken during these meetings to not provide information that might give a potential offeror an unfair competitive advantage. Of course, once the *final* RFP is issued, one-on-one meetings should *not* be held with prospective offerors and other interested parties.

1.6.1.3 Pre-Proposal Conferences may be held after issuance of the RFP. If a pre-solicitation conference was held, it likely not necessary to conduct a pre-proposal conference. Consider these factors when deciding whether two conferences are needed: (1) the significance of the changes between the draft RFP (if issued) and the final RFP, and (2) the potential to generate additional competition. Pre-proposal conferences may: (1) outline principal features of the project, (2) fully describe details of the work statement and specifications, (3) clarify instructions for completing the proposal, (4) provide an opportunity for offerors to ask questions and receive answers, thus imparting a better understanding of the Government's requirements, and (5) stress the importance of certain elements of the solicitation. Prospective offerors should be advised that remarks made by Government personnel do not qualify, change, or otherwise amend the RFP: Only a formal, written amendment to the RFP is binding. A written record of conference proceedings shall be kept by the contracting officer. This record will include any new material provided at the conference. Moreover, any questions and their answers shall be available to all potential offerors. Finally, if any aspect of the RFP changes as a result of the conference, the contracting officer will issue a formal amendment to the RFP.

1.6.1.4 Site Tours. Site tours may, if needed, be held in conjunction with either a pre-solicitation conference or a pre-proposal conference. They should familiarize potential offerors with: (1) size of the site and facilities, (2) work conditions at the site, (3) general condition of the facilities, (4) status of ongoing work, (5) complexity of the scope, and (6) general issues related to performance of the work. Site tours may range, depending on the nature of the SOW and the proposal requirements, from a detailed tour with access to facilities to a "windshield tour" for general familiarization. It is recommended that communications during site tours be closely monitored. To the extent possible, communications should be conducted by the contracting officer; no Government personnel should have side conversations with interested parties. Scripted material is recommended to ensure that all necessary information is consistently communicated. In fact, scripts are necessary when the number of attendees is large enough to require that attendees be broken into smaller groups. Questions should be collected and answers made available to all interested parties by either posting them on a designated web site or issuing them via a formal solicitation amendment.

1.7 Draft RFP. A draft RFP communicates the Government's intentions/needs to industry, while soliciting questions, comments, suggestions, and corrections that improve the final product. Draft RFPs help to resolve potential contract issues. In some cases, this can lead to (1) significant cost savings and productivity enhancements; (2) reduced proposal preparation and
evaluation time; (3) reduced need for solicitation amendments that could delay the acquisition; and (4) better proposals, end products, and services.

1.7.1 Issuing the Draft RFP. No hard-and-fast rule exists on when to issue a draft RFP; however, in the early stages of acquisition planning/procurement strategy development, the program officer(s), legal counsel, and contracting officer/contract specialist are strongly encouraged to address the desirability of issuing a draft RFP. Generally draft RFPs are appropriate when, in the contracting officer's judgment, the acquisition will benefit from early input from interested parties, especially when award without discussions is contemplated. Considerations include: complexity and dollar value, introduction of new business and/or technical requirements, timing and/or uncertainties as to the clarity of the proposed Statement of Work (SOW)/Statement of Objectives (SOO), novelty of the procurement, and potential human resource issues (pay, pension & benefits, workforce size, etc.). Even at this stage, attempt to issue a well thought-out draft RFP; the number of drafts should be kept to a minimum.

1.7.2 Elements of Draft RFP. To the extent practicable, the draft RFP should include all relevant parts of the solicitation, including the model contract, SOW, technical requirements, special contract requirements (Section H), instructions to offerors (Section L), and the evaluation criteria (Section M). The draft RFP should contain as much as possible of the "business" sections necessary for industry to provide meaningful comments; at minimum, it should include Sections L, M, and the Specification/SOW. The draft RFP should identify the point of contact to whom comments should be directed (preferably the contracting officer or Contract Specialist), and the date by which all comments are due. The draft RFP should be published with a cover letter describing DOE's technical and contracting strategy, identifying those areas where DOE specifically desires comments. The letter should also include a statement that information presented in the draft RFP is subject to change, and incurring expenses or beginning to formulate an approach in preparation for the acquisition based on information presented in the draft RFP is solely at the potential offeror's risk.

1.7.3 Publicizing a Draft RFP. The contracting officer/contract specialist should publicize the draft RFP in much the same manner as the final RFP would be publicized. A variety of methods may be used, such as posting announcements to the System for Award Management (SAM) at http://www.sam.gov, and those methods addressed at FAR 15.101 and FAR 5.102 and 5.302. The SAM announcement is prepared within STRIPES and must be transmitted to Fed Connect, https://www.fedconnect.net/FedConnect/, and SAM. The contracting officer should establish reasonable times for receipt of responses to draft RFPs that reflect the nature of the product or service, the supplier base, and the specifics of the individual procurement. The proposed contract action should be synopsized in accordance with FAR 5.201 prior to issuance of the draft solicitation. The notice of availability of a draft RFP and a future timeframe when the solicitation may be issued may be included in the same synopsis.

1.7.4 Handling Questions/Comments in Response to Draft RFP. The contracting officer/contract specialist, in conjunction with support from appropriate technical or other functional advisory staff as merited (e.g., cost price analysts, legal counsel, contractor human resources specialist, small and disadvantaged business specialist) should carefully review each comment to: (1) determine whether it has merit and should be pursued; (2) develop a recommended course of action considering the impact to other processes and elements of the RFP or program; and (3) revise the RFP, as applicable. A record of all comments received and the action taken should be kept in the file. Care must also be taken to ensure that changing the RFP as a result of a comment does not give an unfair competitive advantage to an individual offeror. Consider posting the list of questions/suggestions from industry, along with the Government's responses.

1.7.5 Additional Comment Periods. If the nature of a comment is particularly difficult or complex, it may be beneficial for the Government to establish an additional comment period (i.e., float the Government's proposed change past the potential offerors). It may also be helpful to convene a pre-solicitation conference (see also paragraph 1.6.1.1). One-on-one meetings can also be utilized to obtain feedback on the draft RFP. Questions and answers from these meetings should also be captured and made public through the GPE. In fact, all questions and answers, other than those deemed proprietary to a potential offeror's approach, should be captured and posted on the GPE. Once the final RFP is issued, one-on-one meetings should not be held with prospective offerors and other interested parties.

1.8 Source Selection Plans and the RFP. Acquisitions conducted under FAR part 15 endeavor to select the source(s) that represent the best value to the Government. This permits tradeoffs among cost and non-cost factors and allows the Government to accept other than the lowest-priced proposal (see FAR 15.103-1 0 RFPs must convey information adequate for offerors to understand the basis for the source selection. Pursuant to FAR 15.202(b)(2), when using tradeoffs, RFPs for competitive proposals shall, at a minimum, include: (1) a statement of all evaluation factors and significant subfactors that will affect contract award, (2) the relative importance assigned to each of these factors and subfactors (if identified), and (3) a statement whether all evaluation factors other than cost or price, when combined, are significantly more important than, approximately equal to, or significantly less important than cost or price.

1.8.1 The Source Selection Plan (SSP) is an internal Government document that reflects the RFP, but provides more detail. The SSP helps evaluators to assess a proposal's merit with respect to the evaluation factors and significant subfactors. The SSP also articulates the rating systems to be used. Commonly used rating systems are adjectival, color coding, and numerical. Key to rating systems is the consistency with which the method is applied to all competing proposals, along with the adequacy of the narrative that supports the rating.

1.8.1.1 Basic Elements of the SSP are: (1) evaluation factors and subfactors, as set forth in the RFP, (2) the rating system, (3) the basis for assigning scores, and (4) administrative procedures to guide the evaluation process. As mentioned above, there is a direct linkage between the SSP and the RFP sections. Parallel development of these two documents helps to assure that: (1) there are practical and effective methods for the SEB's evaluation against the evaluation criteria, and (2) the RFP provides necessary information to offerors.

1.8.1.1.1 Evaluation Factors and Weights, as set forth in the RFP, must be adhered to by the evaluators. The SEB should first identify the strengths and weaknesses involved with a proposal, and then assign the appropriate ratings to the criteria. When using a numeric system, this is especially important, as evaluators may fall into the trap of relying on the numbers, rather than the actual merits or weaknesses of the proposal. A sample rating scale for evaluating technical and management factors and significant subfactors is included in the model SSP, available in the STRIPES Library. A proposal need not have all of the characteristics of a rating category in order to receive that rating. The evaluators must use judgment to rate the proposal according to the chosen scale.

1.8.1.1.2 Rating System. While the FAR does not mandate the disclosure of specific rating methods in the RFP, such methods must be described in the SSP. In the event that any departures from the SSP are needed, they must be documented, coordinated with legal counsel, and made known to the SSO.

1.8.1.1.2.1 Adjectival Ratings. Adjectival ratings are a frequently used rating system. Adjectives reflect how well the offeror's proposal meets the requirements for each factor and subfactor. Often-used adjectives are: Outstanding, Good, Satisfactory, Marginal, and Unsatisfactory. Adjectival ratings may be employed independently or in connection with other rating systems.

1.8.1.1.2.2 Color-Coded Ratings. This system uses colors to indicate how well the offeror's proposal meets the requirements for each factor and subfactor. Frequently used colors include Green (outstanding), Blue (good), Yellow (satisfactory), Orange (marginal), and Red (unsatisfactory).

1.8.1.1.2.3 Collective Impact. When using either adjectival or color-coded systems, evaluators must assess the collective impact of subfactors on each higher-tier factor, and then assess the totality of the evaluation factors as they relate to one other under the weighting methodology set forth in the RFP. This forces evaluators to thoroughly understand the strengths and weaknesses of each individual proposal in relation to the evaluation criteria. While it is critical that such depth of understanding is reflected in the evaluation narrative, it also helps with the competitive range determination and other reports.

1.8.1.1.2.4 Numeric Ratings. This system assigns point values (e.g., 0 to10, 0 to 100) to proposals. This may appear to give more precise distinctions of merit, but numeric ratings have drawbacks. The apparent precision of numeric ratings may obscure the strengths and weaknesses that support the numbers. Moreover, the apparent mathematical precision can be distorted depending upon the evaluation criteria used. For example, if a criterion indicated there could be no weaknesses, a very minor weakness could force assignment of the next lower-level rating. This would potentially cause a significant mathematical difference in the proposals.

1.8.1.1.2.5 Staggered Numeric System. If a numerical system is used, the scoring system should be staggered (e.g., scores 0, 5, 8 and 10 denote various ratings). The system should not use a full sequential scale (i.e., 0, 1, 2, 3 . . . 10) to represent the ratings. If the full sequential system is used, the evaluation team is forced to differentiate the rating: A satisfactory element could receive 4, 5 or 6 rating points, with differences among 4, 5 and 6 explained). Sequential systems may also result in overall proposal ratings that are numerically close; this may disguise the proposal differences. Moreover, using a 1-100 sequential system can result in a "public school" grading system, even if the rating plan provides differently: An A proposal gets a 90-100, a B proposal gets 80-89, a C proposal gets 70-79, and so on. This results in over half of the rating scale (59 and below) effectively not being used. In our experience, using a 1-100 rating scale usually results in ratings being clustered in the 85 to 90 range and blurs the real distinctions between proposals. It also makes the cost-technical tradeoff more difficult, where technical differences amount to just a few points.

1.8.1.1.3 Basis for Assigning Scores. A standardized approach to scoring helps evaluators to reliably measure how well each proposal addresses the evaluation factors and subfactors in the RFP. This permits evaluation of proposals against a uniform objective baseline, rather than against one other. This also reduces bias and promotes consistency among evaluators. It is best to draft the scoring approaches while developing the factors and subfactor themselves.

- Specify a target level that the proposal must achieve in order to meet the requirement for the factor or subfactor consistent with the RFP.
- Describe guidelines for higher or lower ratings compared to the target level.
- Overly general approaches should be avoided, as they make consensus among evaluators more difficult to obtain and may obscure the differences between proposals.
- The mere inclusion of a topic in an offeror's proposal should not result in a determination that the proposal meets the requirement.
- While quantitative standards may appear easier to apply, qualitative standards are commonly used in source selections.

1.8.2 Award With or Without Discussions. When preparing the RFP, the contracting officer must determine and seek the SSO's approval on whether to award without discussions. For this decision, there are several factors to be considered:

- Complexity of the requirement,

- Likelihood of alternative technical approaches/solutions,
- Complexity of cost information to be provided in the proposal,
- Likelihood of proposed proprietary processes that will require agreement on ownership and use,
- Potential that information from the offeror's technical proposal will need to be incorporated into the contract, and
- Uniqueness of contract clauses that will need to be negotiated with individual offerors.

1.9 Guidance to the SEB. The contracting officer and legal counsel provide business, procurement and legal advice and guidance to the SSO and SEB Chair. Although SEB training covers the whole source selection process, prior to the initiation of a procurement in a FAR 15 competitive procurement, the contracting officer and legal counsel should brief the SEB on how the source selection process works. The briefing should cover the evaluation process and pertinent documents, conflicts of interest, proposal security, and procurement integrity. The briefing should inform the evaluators of their responsibilities and provide guidance on how to review proposals. If there are non-voting members on the SEB, the contracting officer should explain the limits of their involvement in the process. The contracting officer should also advise the SEB members of the planned schedule, including the time allotted for individual evaluations, consensus discussions, completion of a draft evaluation report, and the anticipated date for completion of the final report. If the RFP included a requirement for oral presentations by the offerors, the contracting officer must explain the evaluation process for oral presentations.

1.9.1 Contracting Officer Briefings to SEB Prior to Evaluation of Proposals.

1.9.1.1 Certification Requirements for Evaluators. The briefing is a good opportunity to make sure that all evaluators have signed the required certifications. Prior to commencing evaluations, if they have not already done so, evaluators are required to complete confidentiality certificates, conflict of interest certificates, or other required certifications.

1.9.1.2 Security of Proposals. In order to prevent unauthorized disclosure of source selection information per FAR 15.108, proposals and any other proprietary or source selection information must be properly safeguarded. Paper copies need to be kept in locked cabinets or locked rooms. Electronic copies should be password protected and closed when individuals are not physically at their computer. Proposals should not be downloaded to thumb drives or other portable media. The SEB chairman should arrange for appropriate facilities for safeguarding the proposals and other source selection information prior to the receipt of the proposals. The contracting officer should inform the evaluators that proposals shall not be taken home. The evaluation and contents of proposals shall not be discussed outside the SEB with the exception of ex officio members, procurement advisors, legal counsel, and the SSO.

1.9.1.3 Potential Individual Conflicts of Interest. Individual conflicts of interest need to be resolved prior to beginning the evaluation. Evaluators must review all

proposed contractors, subcontractors, consultants, and teaming arrangements and report any potential conflicts of interest to the contracting officer, legal counsel, and the SEB chairperson. Evaluators need to report any relatives employed by the proposing entities, friendships, financial interests, pension benefits, and prior employment. The existence of these relationships does not necessarily mean that a conflict of interest exists; legal counsel will review the specifics of the situation to determine if a potential conflict exists. The evaluator will then be informed if any actions need to be taken to avoid the conflict of interest. Actions that may be taken include divestment of stock or removing the evaluator from the source evaluation process.

1.9.1.4 Apparent Conflicts of Interest. Evaluators must be advised against the appearance of a conflict of interest. For example, evaluators should not have lunch or go golfing with offerors or prospective offerors, or engage in any other activity that could give the appearance of a conflict of interest. Evaluators should be encouraged to discuss any questions regarding the appearance of a conflict of interest with the contracting officer and legal counsel.

1.9.1.5 Procurement Integrity Act. Implemented at FAR 3.104 (see https://www.energy.gov/management/procurement-integrity), the Procurement Integrity Act (41 U.S.C. §§ 2101-2107) addresses many issues. The two of most concern to evaluators are the prohibitions against employment discussions and the release of information regarding procurement. The contracting officer should inform the evaluators that civil and criminal penalties, and administrative remedies, may apply to conduct that violates the Procurement Integrity Act and related statutes and regulations. Either the contracting officer or legal counsel to the SEB may provide the procurement integrity briefing.

1.9.1.5.1 Employment Prohibitions. Evaluators should be instructed to consult with legal counsel regarding any contact with an offeror regarding non-Federal employment, as well as questions related to post-employment restrictions (18 U.S.C. 207 and 5 CFR parts 2637 and 2641, as well as the OFPP Act and FAR 3.104-3(c)). In general, evaluators need to be informed that they can't be involved in the source selection process while discussing potential employment (including submitting resumes) with any offerors, including subcontractors and consultants, who are proposing under the RFP. Evaluators with concerns about post-employment restrictions should discuss their situation with legal counsel prior to commencing evaluation of the proposals or becoming further involved with the procurement.

1.9.1.5.2. Disclosure of Proprietary or Source Selection Information. The Procurement Integrity Act also prohibits the disclosure of contractor bid or proposal information or source selection information. Source selection information includes: (1) proposed costs or prices; (2) SSPs; (3) technical evaluation plans; (4) technical evaluation of proposals; (5) cost or price evaluation of proposals; (6) competitive range determinations; (7) ranking of bids, proposals, or competitors; (8) reports and evaluations of source selection panels, boards, or other advisors; and (9) anything else marked “Source Selection Information.” Evaluators may only discuss contractor bid or proposal information or source selection information with individuals who are authorized, in accordance with DOE regulations or procedures, to receive such information. It is important to distinguish between what is public information and what is not. For example, RFP information is public, but the rating plan is not. The weights assigned to evaluation criteria are not public unless they are identified in the RFP. Once a competitive range is established, even though the Government has written letters to offerors letting them know whether or not they are in the competitive range, that information is not public. Evaluators should be cautioned against holding any conversations with or answering any questions from offerors. All questions should be referred to the contracting officer.

1.9.1.5.3 Reports of Potential Violations of the Procurement Integrity Act require the contracting officer to determine if there is any impact on the pending award or selection of the contractor (see FAR 3.104-7). Evaluators should be advised that the earlier a potential procurement integrity violation is reported, the greater the contracting officer's ability to mitigate its effect on the procurement. For example, the contracting officer may be able to mitigate an unauthorized disclosure by making that information available to all offerors or by taking other appropriate action. Additionally, evaluators should be advised that if they are asked to prepare information related to solicitation or the evaluation that they cannot re-delegate the action to a contractor, even if the action appears to be clerical.

1.9.1.5.4 Examples of Violations are helpful, so that the evaluators can relate the procurement or legal jargon to real situations they may encounter. For example, in one case an evaluator allegedly communicated to an offeror in the competitive range, in general terms, how it needed to revise its technical and price proposals in order to receive an award. The potential violation was reported by the offeror and the case was referred to the appropriate criminal investigative organization for further investigation. In another example, a senior-level program official asked a support service contractor to assist in developing the SOW and required labor mix for the re-compete of its own contract. After the violation was reported, the program official attempted to argue that the documents prepared by the support service contractor were only an outline and the information was significantly modified prior to release of the solicitation. This argument was not found to be convincing by the investigative organization.

1.9.1.6 Briefings on the Evaluation Process. The contracting officer should provide an overview of the evaluation process and the steps to be followed. Evaluators should be instructed to review the pertinent documents prior to evaluating the proposals. Evaluators should review and become familiar with the SSP/rating plan, SOW, evaluation scoring sheets, the evaluation criteria in Sections L and M of the RFP, and the established weights for each criterion and sub-criterion.

1.9.1.6.1 Individual Proposal Evaluations must be done by each SEB member. Evaluations shall be based on the evaluation criteria in the RFP, and evaluators need to be cautioned against deviating from those criteria.

1.9.1.6.2 Uniqueness of the Past Performance Criterion. Evaluations of past performance draw from CPARS, from the offeror's previous and current customers, and from other sources.

1.9.1.6.3 Strengths, Weaknesses, and Deficiencies for each criterion must be documented in sufficient detail to support the assigned score or adjectival rating. This does not mean that evaluators will assign individual scores or ratings. It depends on the evaluation process established in the SSP. Commonly, individual evaluators will identify strengths, weaknesses and deficiencies; then the SEB meets to discuss and develop consensus strengths and weaknesses prior to assigning scores. This is the preferred method at DOE.

1.9.1.6.4 Do Not Compare Proposals Against One Another. Proposals shall be evaluated against the criteria and standards established in the solicitation. FAR 15.202(a)(1) states that competitive proposals shall be evaluated solely on the factors and subfactors identified in the RFP. If the information sought does not exist where expected, evaluators should check for it elsewhere, such as the introduction, a diagram, or appendices.

1.9.1.6.5 Consistency is Key. Evaluators must be consistent during the evaluations, scoring, and developing of questions. Evaluators should discuss any questionable issues as a group. Evaluators should be instructed to only credit or fault an offeror once for the same fact or idea unless the solicitation has redundant criteria. Similarly, evaluators need to evaluate the same fact or idea consistently. If something is noted as a weakness under one proposal, it must be designated as a weakness in other proposals with the same fact or idea.

1.9.2 Documentation of Evaluation. FAR 15.202(c)(3)(iii) states that any information regarding predecessor companies, key personnel who has relevant experience will perform major or critical aspect of the requirement. The contracting officer should advise the SEB that the evaluation report needs to be complete, accurate, and contain sufficient detail on strengths, weaknesses, deficiencies, and risks to demonstrate to an outside reviewer that the evaluation was fair, reasonable, and unbiased. Evaluation reports must be clear, convincing and supportable, and may be reviewed by the Government Accountability Office (GAO) or a judge during a protest. Some contracting officers encourage evaluators to reference specific parts of each evaluation criterion and the applicable page(s) of the offeror's proposal for each strength or weakness. Evaluators should be told to avoid generalizations of a proposal's merits or problems, and instead state facts that support the conclusions. The contracting officer must instruct the evaluators to refrain from making personal notes in the proposals and on other documents that are retained. These documents may become part of the source selection record, and personal notes may be used during a protest to show inconsistencies. Evaluators must be advised to stamp all documents and worksheets with "*Source Selection Information - See FAR 2.101 and 3.104*."

1.10 Past Performance as an Evaluation Factor. Past performance is a required evaluation factor (FAR 15.104(b)(3)(i) for negotiated competitive acquisitions over the Simplified Acquisition Threshold. Evaluating past performance entails going beyond the data in the Contractor Performance Assessment System (CPARS, https://www.cpars.gov). It also involves gathering and evaluating information not found in proposals, such as information from third parties about contractor performance on other relevant efforts.

1.10.1 Waivers of Past Performance. Although the past performance evaluation factor is mandatory, the contracting officer may determine that it is inappropriate evaluation factor for a specific acquisition. In that event, the contracting officer must document the special circumstances in the contract file.

1.10.2 Data Recency and Relevance. In soliciting information from offerors through Section L, the contracting officer should consider using language such as "for the same or similar items or services," which helps to ensure the Government does not overly restrict its ability to consider an array of Past Performance Information (PPI). The evaluation team should review and consider the most recent and relevant data available – ideally, no more than three years old (six years for construction or architect-engineering contracts). Similar efforts that are either still in progress or just completed and have ample performance history are ideal.

1.10.3 Subcontractors. PPI on proposed subcontractors should not be requested unless they are major or critical subcontractors. Only information relevant to the scope for each proposed subcontractor should be requested.

1.10.4 Addressing Past Performance in the RFP. As required by FAR 15.104(a)), the RFP must describe the general approach to be used in evaluating past performance. This includes what PPI will be evaluated (including methods for collecting PPI), how PPI will be evaluated, what its weight is relative to other evaluation factors, and how offerors with no PPI will be evaluated. PPI requested from offerors should be tailored to the circumstances of the acquisition and should not impose excessive burdens on offerors or evaluators. At minimum, the RFP should clearly state:

- The Government will conduct a performance risk evaluation based upon the past performance of the offerors and their proposed major subcontractors as it relates to the probability of successfully performing the solicitation requirements. For this, the Government may use data provided by the offeror and data obtained from other sources including CPARS (https://www.cpars.gov).
- The Government may elect to consider data obtained from other sources that it considers current and accurate, but it will request the most recent information available.
- Offerors shall submit recent and relevant information concerning contracts and subcontracts (including Federal, State, and local government, as well as private-sector contracts) that demonstrates their ability to perform the proposed effort.
- Offerors may explain why referenced contracts are deemed relevant to the proposed acquisition. Offerors may provide information on problems encountered on such contracts and the actions taken to correct such problems. Offerors should specifically describe the work to be performed by major proposed subcontractors so that the Government can conduct meaningful performance risk evaluations.
- Evaluation of an offeror's PPI will be predicated on the degree to which it is relevant. Relevancy is not a separate element of past performance; rather, relevancy means that the PPI has a logical connection or similarity to the proposed acquisition's size, scope, and complexity. PPI with limited relevance may be used for evaluation, but may be considered less strongly. If there is no available record of past performance, the proposal will be evaluated neither favorably nor unfavorably.

1.10.5 Minimum of Two References. In order to generate as much PPI as possible for a given contract or subcontract, the offeror should identify at least two references. This also helps to ensure that the references' anonymity can be maintained (see FAR 15.301-1(d)(4)

1.10.5.1 Gathering and Verifying Information from References is the responsibility of the Government. Questionnaires followed up by telephone interviews have the most success in getting useful and timely responses. Questionnaires should be provided in the RFP (as an attachment to section L, and which offerors can disseminate to their intended references). Questionnaires may be returned by references directly to DOE without going through the offeror. This helps offerors understand what is important to the Government under this criterion. Questionnaires normally contain no more than one page of questions; the questions must be relevant to the specific acquisition, designed to elicit sufficiently detailed information for a thorough evaluation of past performance. If following up with references, the Government should ensure questions asked of each reference are the same. Inconsistency in questions can lead to the potential issue of unequal evaluation of offerors.

1.10.5.2 Other Pertinent Information that supports an entity's past performance, such as awards of excellence presented to the companies that will be performing the work, should be requested. The evaluation team should consider collecting the lists of references and PPI in advance of receiving the proposal. Accordingly, the RFP can request that offerors provide a summary past performance early (e.g., in advance of the proposal due date). This allows the Government to begin collecting data. To obtain timely completed questionnaires, the contracting officer may have offerors send the questionnaires to all references in advance of submitting their proposals, so that the completed questionnaires arrive at the same time as the proposals. Avoid formula-driven past performance ratings, as evaluation of past performance is subjective.

1.10.5.3 Amount of PPI. SEBs may want to limit the information requested to a summary of the offeror's performance for each contract or subcontract. The summary should include contract numbers, contract type, description and relevancy of the work, dollar value, and contract award and completion dates; and names, phone numbers, and email addresses for references in contracting and technical areas.

1.10.6 No PPI. If the evaluation team finds no information, an offeror's lack of PPI must be treated as an unknown performance risk, having no positive or negative evaluation significance. The method and criteria for evaluating offerors with no PPI should be constructed for each acquisition to ensure that such offerors are evaluated neutrally on past performance. The solicitation must clearly describe the approach that will be used for evaluating offerors with no performance history.

1.10.7 Newly Formed Companies and Mergers. PPI from previously established companies from which new companies and mergers arise may be used to mitigate the absence of PPI for new entities. Note: Information from the Federal Awardee Performance and Integrity Information System (FAPIIS) may be used to trace predecessor companies (as well as for responsibility determinations, pursuant to FAR 9.104-6(b)). By examining predecessor companies, evaluators may gain basic insights on past performance. In addition to Federal sources, PPI should be considered from other sources such as State and local government contracts and private-sector contracts and subcontracts. The RFP must explain that this information will be considered.

1.10.8 Experience vs. Past Performance. The terms "experience" and "past performance" must be clearly defined in the RFP. Experience reflects whether contractors have performed similar work before; past performance describes how well contractors performed the work. If experience is to be evaluated, it should be a separate evaluation factor, not combined with past performance.

1.10.9 Definition of "Offeror." Make certain that section L defines whether the term "offeror" includes each firm in the business relationship (whether a joint venture, teaming arrangement, or major subcontractor) and who will be evaluated on past performance. Section L should also include a statement that PPI will be used for both the responsibility determination and the Best Value decision.

1.10.10 Amount of Weight to Place on PPI. Past performance should be given sufficient weight to ensure that it is meaningfully considered throughout the source selection process and will be a valid discriminator among the proposals received. There is not an ideal weight for past performance relative to the weight of the other evaluation criteria.

1.10.11 Adverse PPI. In the case of adverse PPI on which offerors had no previous opportunity to comment, the contracting officer must provide offerors with the opportunity to comment. This practice ensures fairness for the competing offerors. The validation process is particularly important when the adverse information came from only one reference or when there is any doubt concerning the accuracy of the information.

1.10.11.1 Disclosure of PPI to Offerors. Although the Government must disclose PPI problems to offerors, including the contract on which the information is based, it shall not disclose the name of individuals who provided information about an offeror's past performance. The Government can avoid disclosing names of individuals by identifying an office from which the information was received.

1.10.11.2 Adverse PPI on Entities with Relationships to Offeror. When receiving adverse PPI on entities that have formed business arrangements with a proposed prime contractor, the Government can only advise the proposed prime that there is a problem with one of the entities it has proposed to perform the requirement. Specifics cannot be provided to the offeror unless the affected entity agrees.

1.10.12 When to Conduct Communications/Exchanges on PPI: If award is to be made without conducting discussions, offerors *may* be given the opportunity to clarify the relevance of their PPI (see FAR 15.203. If a competitive range is to be established, offerors *shall* be given the opportunity to address PPI to which an offeror has not had an opportunity to respond, if the PPI is the determining factor preventing the offeror from being placed within the competitive range FAR 15.202(a)(2)(ii) If discussions are held after establishment of a competitive range, discussion *must* include adverse PPI to which the offeror has not yet had an opportunity to respond (see FAR 15.202(a)(2)(ii)The preceding two requirements may appear redundant, but both are needed, as adverse PPI may become known to the contracting officer both before and after establishment of the competitive range.

1.11 Oral Presentations provide offerors an opportunity to present information in person. Oral presentations can substitute or augment written proposals; they are subject to the same restrictions as written proposals, both with respect to timing (FAR 15.107 and content 15.202). Oral presentations permit evaluators to learn about key members of the offerors' teams, organizational structures, and how the contract will be managed. Oral presentations may also be conducted in an interview form, with evaluators probing for additional information, posing sample tasks, or otherwise testing the ability of the offerors' teams.

1.11.1 Approaches for Oral Presentations. Various approaches may be used, but evaluators should consider the media used to record the presentation; the extent and nature of the material and media used in the presentation; the Government participants; each offeror's team; and the amount of time permitted for the presentation.

1.11.2 Concerns. Also consider ways to alleviate concerns, such as presentation styles (rather than technical substance) impacting evaluators' decisions; limits on exchanges (to assure they do not constitute discussions); and that efforts associated with preparing material for both oral and written formats are not duplicative.

1.11.3 Oral Preparation Instructions should cover:

- Topics the offeror must address;
- Technical and management factors;
- Who the offeror may bring to the presentation;
- Time limitations for the presentation;
- Other logistics for the site and presentation media;
- Government-offeror interactions during and after the presentation;
- Information disclosure rules;
- Statement that presentations do not constitute discussions (see FAR 15.202(a)(2)(iv)
- Statement that the orals will be recorded in a mode adequate for meaningful review;
- Number of Government attendees and their titles.

1.11.4 Attendance at Oral Presentations will vary, based on the size, scope and complexity of the procurement. At minimum, the SEB chairperson, voting members, contracting officer, and executive secretary must attend. Legal counsel usually do not attend. The SEB chairperson should determine which, if any, of the various advisors should attend. The SSO may elect to attend. To ensure fair competition, an evaluator's attendance at one oral presentation necessitates attendance at all oral presentations.

1.11.5 Preparation. The order of presenters must be determined. A lottery is often used to determine the sequence of presentations by offerors. The time between the first and last presentation should be as short as possible to minimize any advantage to the later presenters. The facility for the presentation must be determined. In most cases, the facility is selected and controlled by the buying activity. However, nothing precludes a presentation being given at an offeror's facility, although this is the least preferred option. When selecting a facility, consider:

- Accessibility;
- Availability for inspection by offerors before the actual presentation time; and
- Level of comfort for both the presenters and the Government evaluators. The room should be large enough to accommodate all of the participants, the recording equipment, lighting, audio-visual aids, and furniture.

1.11.6 Facilities and Resources. The RFP should, to the extent possible, describe the physical characteristics of the facility and resources available to offerors. The RFP should also clarify what types of equipment, if any, will be available to offerors, and any prohibitions on equipment types and usages. Prior to the presentation, the contracting officer should review any ground rules with offerors, as conveyed in the instructions (see paragraph 1.11.3).

1.11.7 Government Evaluators' Responsibilities should be communicated by the contracting officer both before and after the oral presentation:

- Oral presentations involve sensitive information subject to confidentiality;
- All Government evaluators should be present at every presentation;
- The contracting officer must attend and should chair every presentation;

- If the SSO attends one oral presentation, the SSO should attend all oral presentations.
- The SSO should not, however, participate in any clarifications.

1.11.8 Preference for In-Person Presentations. Offerors should present in person, as video conferencing introduces the risk (for both parties) of diminished control of the meeting. Likewise, pre-recorded video or audio presentations are strongly discouraged.

1.11.9 Preference for Key Personnel Presenters. It is strongly recommended that the presenters should be the key personnel (project managers, task leaders, and other in-house staff) who will perform or personally direct the work.

1.11.10 Time Management. To encourage astute time management, each offeror should be held to firm limits on both the time and the materials used in the oral presentation. All offerors must be held to the same limits. Time allocated to each part of the presentation should be left to the offeror's discretion.

1.11.11 Benefits of Oral Presentations. Oral presentations enable faster, richer communication that benefits both Government and industry. However, the nature and extent of information exchanges between offerors and the Government during such presentations requires planning to avoid protests and other pitfalls.

1.11.12 Rules Regarding Exchanges with Offerors during the course of the solicitation process must be watched carefully (FAR 15.105-1). This is especially important if you decide to have your presentations before you establish the competitive range or you are contemplating making an award without discussions. You do not want to inadvertently trigger the rules regarding discussions (FAR 15.204-2(d)

1.11.12.1 Oral Presentations vs. Oral Discussions. The two terms are not synonymous. Oral discussions generally consist of communications following establishment of the competitive range. This provides an opportunity for an offeror to explain, supplement, or enhance written material previously provided to address evaluated deficiencies and significant weaknesses in the proposal, with the end objective being the submission of a revised proposal by the offeror.

1.11.12.2 Regulatory Controls. FAR 15.203, 15.204-2(d) and 15.204-2(c)(1) prescribe strict controls over when, where, and to what extent, the Government can communicate with an offeror regarding its proposal. This is done in order to ensure fairness in the evaluation process. As stated earlier, restrictions on communications between the Government and the offeror should be addressed by the contracting officer to all parties prior to the commencement of the oral presentation (see FAR 15.201 and 15.202(a)(3)).

1.11.12.3 Review of Ground Rules before the Oral Presentation is a necessity. However, limiting dialogue to questions that merely repeat statements that may not have been heard by the evaluators adds little value in improving the understanding of the offeror's presentation. Evaluators may ask questions, but need to be cautious about revealing whether the Government finds the presentation favorable or unfavorable or entering into discussions. A practical technique is for the evaluators to recess after the oral presentation and discuss the questions to be asked in consultation with the contracting officer, reaching out to legal counsel if necessary. Clarify whether only the contracting officer will ask questions of the

Offeror. On the other hand, if you've already established the competitive range, the oral presentation may be the optimal setting for conducting discussions (FAR 15.105-1 and 15.202(a)(3).

1.11.13 Recording the Oral Presentation. FAR 15.202 (a)(3) states that the contracting officer shall maintain a record concerning what was relied upon to make a source selection decision. The method and level of detail is up to the agency and must be communicated to the offerors prior to commencement of the oral presentation. Some examples of records include video and audio recordings, written records, Government notes, and copies of briefing slides or presentation notes. contracting officers shall record all oral presentations through audio and video recording, with a time-date stamp, unless legal counsel approves otherwise. In general, note-taking as a means of creating a record of the oral presentation is not a good substitute for audio/video documentation.

1.11.14 Evaluating the Oral Presentation. There is no firm rule regarding the appropriate time to evaluate the presentation; however, in DOE, it is recommended that the presentations be evaluated immediately after each is made. This enables evaluators to exchange reactions, summarize potential strengths and weaknesses, and verify perceptions and understandings. Materials referenced in a presentation, but not an actual part of the presentation, must not be accepted, or used in, evaluations.

1.12 Exchanges with Offerors After Receipt of Proposals. There are four types of exchanges with offerors: clarifications, communications, discussions, and negotiations. It is important that contracting officers understand the differences among these exchanges.

1.12.1 Clarifications are limited exchanges that may occur when award without discussions is contemplated. Invoking clarifications with one offeror does not require exchanges with all offerors, so long as they are handled correctly and documented carefully. Care needs to be taken by the contracting officer to ensure that exchanges are within the limits at FAR 15.201(d) and 15.203

1.12.1.1 Appropriate Use of Clarifications. Clarifications allow for learning the relevance of PPI, for an offeror to respond to adverse PPI if the offeror has not previously had that opportunity, for resolving obvious minor or clerical errors (e.g., misplacement of decimal point in proposed price or cost information, incorrect Prompt Payment Act discount, reversal of F.O.B. Destination and F.O.B. Origin, error in designation of the product unit), and for resolving issues of responsibility or acceptability of the proposal as submitted. Clarifications are permitted to give the offeror an opportunity to make clear and obvious key points about the proposal as originally submitted.

1.12.1.2 Inappropriate Use of Clarifications. The offeror may not revise, expand, enhance, or amplify its proposal. The intent of clarifications is to remove obvious ambiguity, not to permit the offeror to improve its position by drawing inferences from the Government's questions and using those inferences to shade the meaning of the original proposal so that it becomes more attractive or beneficial to the Government.

1.12.2 Communications are exchanges after receipt of proposals and before establishment of the competitive range. Communications are authorized only when the offeror is not clearly in or clearly out of the competitive range. In other words, communications are used to determine whether an offer should be included in the competitive range. As was the case with clarifications, invoking communications with one offeror does not require exchanges with all offerors, so long as this is handled correctly and documented carefully (see limits at FAR 15.105-2, 15.202(a) and 15.203. Like all elements of the source selection process, communications must be carefully documented by the contracting officer to ensure there is no appearance that one offeror is favored over another. The nature and extent of the exchanges needs to be set out clearly for the record.

1.12.2.1 Appropriate Use of Communications. Communications shall be held with offerors whose PPI is the determining factor preventing them from being placed within the competitive range. Such communications shall address adverse PPI to which an offeror has not had a prior opportunity to respond. Communications shall also address issues that must be explored to determine whether a proposal should be placed in the competitive range. Such communications may be conducted to enhance Government understanding of proposals; allow reasonable interpretation of the proposal; or facilitate the Government's evaluation process. Such communications shall not be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, and/or otherwise revise the proposal.

1.12.2.2 Inappropriate Use of Communications. Communications may not cure proposal defects or material omissions; materially alter the technical or cost elements of the proposal; or otherwise revise the proposal. Communications may not alter the Government's evaluation of the proposal such that the offeror's proposal has effectively been revised as a result of such communications and/or clarifications. If clarifications or communications inadvertently become discussions or negotiations, the contracting officer should establish the competitive range and conduct discussions with all offerors in order to ensure fair treatment of all offerors.

1.12.3 Discussions. Once a competitive range has been established, communications will be expanded to include discussions and may also include additional clarifications. The contracting officer must hold meaningful discussions with all offerors.

1.12.4 Negotiations are exchanges after determination of the competitive range that are undertaken with the intent of allowing the offeror to revise its proposal. When negotiations are conducted in a competitive environment, they take place after the competitive range is established and they are called discussions. (In competitive acquisitions, the terms "negotiations" and "discussions" are often used synonymously.)

1.12.5 Competitive Discussions/Negotiations. Some contracting officers have restricted discussions with offerors in the competitive range to deficiencies, significant weaknesses, and adverse PPI to which the offeror has not yet had an opportunity to respond**.** However, such discussions should also be used to make sure that the Government team fully understands what the offeror is proposing to provide, and that the offeror fully understands what the Government requirements are. FAR 15.204-2(b)(4) allows negotiations that more closely resemble what industry can do in acquiring goods and services. If, as a result of negotiations with one offeror, the Government realizes that a change in requirements would lead to more advantageous proposals, the RFP should be amended to reflect any new or changed requirement(s).

1.12.6 Communicating About Weaknesses and Deficiencies. FAR 15.204-2(d) requires the contracting officer to indicate to, or discuss with, each offeror still being considered for award, deficiencies, significant weaknesses, and adverse PPI to which the offeror has not yet had an opportunity to respond. The contracting officer also is encouraged to discuss other aspects of the offeror's proposal that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposal's potential for award. However, the contracting officer is not required to discuss every area where the proposal could be improved.

1.12.6.1 "Deficiency" means a material failure of a proposal that affects price, quantity, quality, or delivery, or that the RFP requires to be met at the time of proposal submission (FAR 15.001).

1.12.6.2 "Weakness" means a flaw in the proposal that increases the risk of unsuccessful contract performance (FAR 15.001).

1.12.6.3 "Significant Weakness" means is a flaw that appreciably increases the risk of unsuccessful contract performance (FAR 15.001). A number of weaknesses within a criterion, when considered together and based on the nature of the weaknesses, may constitute a significant weakness.

1.12.7 Limits on Exchanges. FAR 15.201(d) states that Government personnel involved in the acquisition shall not engage in conduct that:

- Favors one offeror over another;
- Reveals an offeror's technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise an offeror's intellectual property to another offeror;
- Reveals an offeror's price without that offeror's permission;
- Reveals the names of individuals providing reference information about an offeror's past performance; or
- Knowingly furnishes source selection information in violation of 3.104 and 41 U.S.C. §§ 2101 and 2102.

1.12.8 Competitive Cost/Price Discussions/Negotiations. The contracting officer may inform an offeror that its price is considered by the Government to be too high, or too low, and reveal the results of the analysis supporting that conclusion. It is also permissible, at the Government's discretion, to indicate to all offerors the cost or price that the Government's price analysis, market research, and other reviews have identified as reasonable (FAR 15.201(d)(5) and 41 U.S.C. §§ 2101 and 2102. However, the release of internal Government documents such as audit reports or independent Government cost estimates is not recommended.

1.12.8.1 Discussions/Negotiations on Cost or Price. When negotiations are conducted, the contracting officer needs to discuss the specific cost or price proposed with the offeror to the extent necessary to determine the reasonableness of the cost or price. FAR 15.404-3(b) requires cost realism analyses on cost-reimbursement contracts to determine the probable cost of performance for each offeror. Cost realism analyses may also be used on competitive fixed-priced incentive contracts or, in exceptional cases, on other competitive fixed-price contracts when new requirements may not be fully understood by competing offerors, there are quality concerns, or past experience indicates that contractors proposed costs have resulted in quality or service shortfalls (see FAR 15.404-3)).

1.12.8.2 Handling significant cost/price spreads in competitive offers. A wide range of pricing may indicate that the offerors may not fully understand the Government's requirements, or that there is vagueness in the solicitation that leads to widely different interpretation of the requirements. The contracting officer needs to understand which is the case and proceed accordingly, including briefing the SSO as needed. In such circumstances, the contracting officer may need to obtain information other than cost and pricing data from each offeror, analyze the data, and conduct fact-finding with the offerors in order to develop a most probable cost and/or to assure that all offerors understand the requirement and that the proposed cost/price is fair and reasonable. Even in a competitive fixed-price environment on a complex or one-of-a-kind procurement, if there is a significant range of pricing and all the offerors are proposing the same technology, the contracting officer should attempt through discussions to understand the major cost drivers underlying the differences and determine whether an offeror may be trying to "buy-in" with plans to "recover" after the award.

1.13 Price and Cost Reasonableness. "Price" means the offeror's cost plus any fee or profit applicable to contract type. Given the contracting officer's responsibility for procuring supplies and services at fair and reasonable prices, the contracting officer must ensure that price is evaluated in every source selection (see FAR 15.104(b)(1). To determine reasonableness, the contracting officer may perform either price analysis or cost analysis. If the price is based on adequate competition, generally no additional data from the offeror is necessary to determine price reasonableness. However, in source selections for cost-reimbursement contracts, the contracting officer must also perform cost-realism analysis to determine the probable cost of performance of each offeror and use that to evaluate best value. The contracting officer may request data to evaluate the cost realism of competing offers or competing approaches. The contracting officer must document the evaluation of cost or price (see FAR 15.202(a)(1), FAR 15.404-1 and FAR 15.404-3)

1.13.1 Price Analysis. Price analysis is the process of examining and evaluating a proposed price without evaluating separate cost elements and proposed profit. In a competitive environment, price analysis is the preferred technique for determining price reasonableness because it permits the contracting officer to make the determination without a detailed cost analysis. (See Acquisition Playbook, section AP15.404-4 for more information on evaluation of cost proposals.) Price analysis is generally based on data obtained from sources other than the offeror. These data are gathered by the Government negotiating team from as many sources as possible. Generally, to assure that the price being included in the contract is reasonable, a sound price analysis will be based on several different types of data.

1.13.1.1 Price Analysis Techniques. One or more of the following techniques, or other techniques may be used to perform price analysis:

1.13.1.1.1 Comparison of All Proposed Prices received in response to the solicitation. Caution should be used when applying this technique, however, as all prices proposed may be unreasonable.

1.13.1.1.2 Comparison of Previously Proposed Prices and previous Government and commercial contract prices with current proposed prices for the same or similar items, if both the validity and the reasonableness of the previous prices can be established. A determination must be made that ensures that the price that is being compared to the proposed price has been determined to be fair and reasonable, either through presence of adequate price competition or some other manner such as cost or price analysis.

1.13.1.1.3 Parametric Estimating may be used to identify inconsistencies in pricing that require further review. It is a technique used to estimate a particular cost or price (dependent variable) by using an established relationship with an independent variable. Steps to follow when using this technique are:

- Define the dependent variable (e.g., cost, dollars, hours, etc.)
- Select the independent variable to be tested for developing estimates of the dependent variable.
- Collect data concerning the relationship between the dependent and independent variables.
- Explore the relationship between the dependent and independent variables.
- Select the relationship that best predicts the dependent variable.
- Document your findings.

1.13.1.1.4 Comparison to Published Price Lists may be done via published market prices of commodities, similar indexes, and discount or rebate arrangements.

1.13.1.1.5 Comparison of Proposed Prices to Independent Government Cost Estimates. See paragraph 1.13.3 for more details.

1.13.1.2 Sufficient information is key to determination of price reasonableness. When insufficient information is available from other sources, information sufficient to determine a fair and reasonable price must be requested from the offeror. Care must be taken to ensure that only essential information is requested. Certified cost and pricing data should not be requested unless required by regulation or determined necessary by the contracting officer.

1.13.2 Cost Analysis entails the review and evaluation of the separate cost elements and profit/fee in an offeror's proposal (including cost or pricing data or information other than cost or pricing data), and application of judgment. Cost analysis is used to determine how well the proposed costs represent the cost of the contract, assuming reasonable economy and efficiency. Cost analysis must be performed anytime that cost or pricing data are required (see FAR 15.403-3(a), 15.403-3(b) and 15.404- (a)(3)). Cost or pricing data are not obtained when there is adequate price competition. Cost analysis may also be used to evaluate other than cost or pricing data (see FAR 15.404(a) When cost analysis is required, the proposal must be analyzed to determine what costs to use in developing the negotiation objective and what price is deemed fair and reasonable. Note: Even when using cost analysis, the contracting officer must also conduct price analysis to verify that the overall price is fair and reasonable.

1.13.2.1 Allowability of Costs. The contracting officer may only consider allowable estimated costs in the cost analysis. There are several requirements for cost allowability: reasonableness; allocability; compliance with Cost Accounting Standards (CAS), if applicable; compliance with the terms of the contract (FAR 31.201-2), and the limitations of FAR subpart 31.2. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. A cost is allocable if it is assignable or chargeable to one or more cost objectives on the basis of relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable if it (a) is incurred specifically for the contract; (b) benefits both the contract and other work, and can be distributed to them in reasonable proportion to the benefits received; or (c) is necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown. Below are the cost elements generally found in a cost proposal:

1.13.2.1.1 Direct Costs are costs incurred specifically for the contract. These costs take the form of material, labor, tooling, subcontract costs and other direct costs. Two aspects of these costs that must be analyzed: volume or quantity and unit price. As an example, the amount of labor hours, rates and skill mix proposed must be analyzed to determine if they are reasonable to perform the contract.

1.13.2.1.2 Indirect Costs are costs that cannot practically be assigned directly to the production or sale of a particular product. In accounting terms, such costs are not directly identifiable with a specific cost objective. The term "indirect cost" covers a wide variety of cost categories and the costs involved are not all incurred for the same reasons. A firm may have as few as one or many cost accounts. In general, indirect cost accounts fall into two major categories: overhead and general and administrative (G&A).

1.13.2.1.2.1 Overhead. These are indirect costs incurred primarily to support specific operations. Examples include material overhead, manufacturing overhead, engineering overhead, field service overhead, and site overhead.

1.13.2.1.2.2 G&A Costs. These are management, financial, and other expenses related to the general management and administration of the business unit as a whole. These costs may be either incurred by or allocated to the general business unit. Allocation occurs when home office expenses are allocated to a division as a business unit. Examples of G&A costs include salary and other costs of the executive staff of the corporate or home office, salary and other costs of such staff services as legal, accounting, public relations, and financial offices; selling and marketing expense.

1.13.3 Independent Government Cost Estimate (IGCE) is the Government's estimate of the resources and the projected cost of the resources a contractor will incur in the performance of a contract. These costs include direct costs; such as labor, material, supplies, equipment, or transportation and indirect cost; such as overhead, G&A expenses, fringe benefits, as well as profit or fee. An IGCE is required for every procurement action in excess of the simplified acquisition threshold, and is usually developed by the program office during acquisition planning. As discussed above, the IGCE can be used by the contracting officer when performing price analysis to determine a price fair and reasonable.

1.13.4 Cost Realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's cost proposal to: (1) verify the offeror's understanding of the requirements, (2) assess the extent to which the cost proposal is consistent with the technical proposal, as well as any unique methods of performance and materials, and (3) identify potential risks. Cost realism analysis leverages the technical evaluation of cost (see Acquisition Playbook, section AP 15.404-4) to determine the probable cost. Probable cost should reflect the evaluators' best estimate of the cost of any contract resulting from that offeror's proposal, including any recommended additions or reductions in personnel, equipment, or materials. Cost realism analysis must be performed on all cost-reimbursement contracts; a similar approach may also be used on competitive fixed-price contracts. Importantly, however, cost realism analysis is used for the purpose of determining best value (see FAR 15.404-3– not for making upward or downward adjustments to the offeror's cost proposal.

1.13.5 Technical Analysis or Evaluation of Cost must be performed in order to complete a cost realism analysis and determine the probable cost (see Acquisition Playbook, section AP 15.404-4-). Personnel having specialized knowledge, skills and experience in engineering, science, or other technical disciplines perform a technical analysis of certain aspects of the cost proposal including compliance with the delivery schedule, proposed types and quantities of materials, labor, processes, special tooling, facilities, the reasonableness of travel, training, scrap and spoilage, etc. (see FAR 15.404-4(b)

1.13.6 Fair and Reasonable Price means that the price is fair to both parties to the contract, considering the promised quality and timeliness of contract performance. The preceding concepts and techniques all aim to support the contracting officer's fair and reasonable price determination.

1.14 Tradeoffs Under Best Value Procurements. On the best value continuum, there is recognition that the Government always seeks to obtain the best value in negotiated acquisitions using any one, or a combination, of source selection approaches, and that the acquisition should be tailored to the requirement. On one end of this continuum is the low-priced technically acceptable strategy. On the other end is a process by which cost or price can be traded off against other factors such as past performance and technical considerations to identify the proposal that provides the Government with the overall best value. Tradeoffs are used when it may be in the best interest of the Government to consider award to other than the lowest priced offeror or other than the highest technically rated offeror. Best value procurements involve tradeoffs between cost and other factors such as technical and past performance (e.g., if the Government's requirement needs are to increase efficiency and thereby reduce the agency's operating cost, the purchase of a high-end computer at a high price may a better value than a low-end computer at a low price in achieving these requirements). Establishing the evaluation scheme allowing for a cost/technical tradeoff decision allows for a great deal of discretion and the exercising of judgment by the SSO.

1.14.1 Steps in Tradeoff Analysis. First, the RFP should contain language that establishes the procedures that allow award to other than the lowest-price offeror or other than the highest technically rated offeror. After establishing all factors to be evaluated and their relative importance, the RFP must state whether all evaluation factors other than cost or price, when combined, are significantly more important than, approximately equal to, or significantly less important than cost or price (FAR 15.104(d) An evaluation of all technical and management criteria should be performed in accordance with the evaluation scheme provided for in the RFP. The exact language in the RFP should be referred to frequently and followed closely in a tradeoff analysis. Ensure each word or phrase of the evaluation criteria is considered. It is important for the SEB to develop written narratives which describe the strengths and weaknesses of each offer as they are important tools in making and documenting a tradeoff decision. The price the Government will use in making a tradeoff decision should be described in the RFP. For a fixed-price offer, this will usually be the offered price. For a cost-reimbursable contract, this must be calculated as a "most probable cost" under cost realism procedures. If the Government receives an offer which, when evaluated, offers both the lowest evaluated price and the highest rated technical/management offer, no tradeoff analysis is required. If, however, that is not the case, the SSO should determine whether the value of technical and management differences between higher rated proposals justifies paying the cost differential between the lower most probable cost/lower technically rated proposals. The ability to differentiate meaningfully among proposals is very important in making this decision.

1.14.2 Documentation of Tradeoff Decision. In accordance with FAR 15.205, the source selection decision shall be documented, with the rationale for any business judgments and tradeoffs made or relied on by the SSO, including the benefits associated with additional costs. Although the rationale must be documented, the documentation should not quantify the tradeoffs that led to the decision, unless this is required by the RFP. Rather, documentation should reflect that the evaluation of the offerors' proposals was reasonable and in accordance with the RFP criteria. GAO protest reports consistently indicate contemporaneous documentation must be in the file. In a protest, given the discretion granted to agencies for the conduct of Best Value procurements, disappointed offerors generally will have only two legal bases for challenging an agency's cost/technical tradeoff analysis: (1) that the agency's underlying cost and technical evaluations that formed the basis for the tradeoff decision were inconsistent with the terms of the solicitation; and (2) that the tradeoff decision was unreasonable. There is no legal requirement that the agency quantify any tradeoffs in terms of dollars. An agency should use the evaluation approach (e.g., narrative, quantification) that best meets its needs. For example, agencies can use narrative explanations of tradeoff decisions, so long as they are reasonable and consistent with the RFP criteria. Some examples of rationale for the business judgments and tradeoffs made by the SSO include the amount of cost differential, project or service criticality, the value to DOE of the higher level of performance, and potential consequences to the DOE in the event of poor performance. Determining factors should be described in a clear and convincing manner, providing justification as to how they relate to anticipated contract success.

1.14.3 Basis for Cost/Technical Tradeoff is not on the percentage difference in technical scores and probable cost. Rather, it must be based on subjective analysis of the strengths and weaknesses versus the probable cost difference. In the example below, when A is selected (as the highest-rated proposal), a cost/technical tradeoff must be made between A and B and A and D (B and D being lower-cost proposals). If B is selected (as the second-highest rated proposal), then a cost/technical tradeoff is made between B and D. If D is selected (as the lowest-cost proposal) a cost/technical tradeoff is not necessary since D is the lowest-cost proposal. However, in all instances in which the evaluation criteria states that technical is more important than cost and the selected offeror is not the highest-rated, the selection decision must document the reasons that the higher technically rated proposal is not worth the cost differential. This is necessary to demonstrate that the selection properly considered the weighting of technical in relation to cost.

Offeror	Technical Score	Probable Cost*
A	875	$76M
B	795	$68M
C	635	$83M
D	620	$58M

** In this example, the technical proposal is significantly more important than cost.*

1.15 Evaluation Report. The FAR requires that evaluations of the relative strengths, deficiencies, and significant weaknesses, and risks of proposals be documented in the contract file (see FAR 15.202(a). The content of this evaluation should be in the form of a report that definitively and comprehensively reflects the Government's evaluation consistent with the evaluation criteria stated in the solicitation. Furthermore, the report should accurately reflect the deliberations of the SEB/TEC, and be consistent with the SSP.

1.15.1 General Approach. Develop concise, comprehensive documentation that reflects the Government's overall evaluation of proposals. The evaluation report becomes the official record documenting the logic and rationale used to arrive at the evaluation and ratings. The evaluation report must, at minimum, contain the relative strengths, weaknesses, deficiencies, and other considerations of each proposal evaluated against the stated evaluation criteria contained in the solicitation. (Depending on the SSP requirements, the evaluation report should include the significant strengths, strengths, weaknesses, significant weaknesses, and deficiencies.) Include scores, adjectival ratings, and relative rankings of offerors in the evaluation report. The level of detail of the evaluation documentation depends on the nature, scope, and complexity of the acquisition.

1.15.2 Level of Detail. Evaluated strengths, weaknesses, and deficiencies must be addressed in sufficient detail to support the rating or ranking given. When composing the text for strengths, weaknesses, and deficiencies, include the following:

- What is proposed;
- The Government’s assessment (i.e., good or bad/strong or weak)
- Why it is good or bad (i.e., the effect of what is proposed); and
- How it relates to the evaluation criteria.

1.15.3 Other Guiding Principles for the evaluation report:

- Reflect the process used to evaluate proposals (consistent with the SSP).
- Incorporate, attach, or reference all relevant evaluation information used to arrive at a consensus evaluation, e.g., audit reports, technical evaluation reports, etc.
- If discussions were held, address how proposals changed from initial to final revised proposals and how the evaluations changed – this includes strengths, weaknesses, deficiencies, cost/fee, and most probable cost determination.
- Provide sufficient information so that the SSO can clearly understand the area being evaluated and how it relates to the evaluation criteria.
- Provide information that helps the SSO appreciate distinctions among proposals and the relative significance of those distinctions.
- Develop documentation which the Government can use as a basis for debriefing unsuccessful offerors.
- Consider that the report may be reviewed by a third party, e.g., GAO or a court, and thus needs to be definitive as to conclusions reached and the basis for such conclusions.

1.16 Decision Document. Proper documentation of the entire Source Selection Process is critical to the success of the procurement. The SSO decision shall be based on a comparative assessment of proposals against all source selection criteria in the RFP. While the SSO may use reports and analyses prepared by others, the decision shall represent the SSO's

independent judgment. The decision shall be documented, and shall include the rationale for any business judgments and tradeoffs made or relied on by the SSO, including any benefits associated with additional costs. Although the rationale for the decision must be documented, that documentation need not quantify the tradeoffs that led to the decision. The documentation should also demonstrate to any third-party forum that the evaluation is performed in a fair and honest manner
and in a manner consistent with the solicitation. Also, a properly documented record will greatly assist those called on to justify the selection decision. A Source Selection Decision Document template is available in the STRIPES Library.

1.16.1 SSO's Understanding of the Evaluations. While the SSO has a great deal of discretion in making the source selection decision, he/she must first have a full understanding of the evaluations. Proper documentation assists the SSO in understanding the rationale employed by the evaluation team and increases confidence that the findings of SEB were consistent with the stated evaluation criteria and SSP and are reliable. The SSO must be provided sufficient information on each of the competing offerors and their proposals to make a comparative analysis and arrive at a rational, fully supportable selection decision. Narrative statements serve as the most important part of the documentation supporting the decision. The selection decision must show the relative differences among proposals and their strengths, weaknesses and risks in terms of the evaluation factors. Each of these is an essential part of providing adequate support for the ultimate selection decision. Narrative statements serve to communicate specific information concerning relative advantages or disadvantages of proposals to the SSO that the rating scheme alone (whether adjectival or numerical) obviously cannot. Such documentation need not be lengthy, as long as it effectively conveys the basis for the SEB's assessment. Proposals receiving the same or similar rating can still have obvious distinctions. These distinctions could have a direct impact on the source selection decision and should be documented by the SEB or the SSO. Preparation of such statements provides an excellent discipline for the evaluators because it forces them to justify their ratings and be consistent with the stated evaluation criteria.

1.16.2 Fairness and Impartiality. Given the public trust invested in the source selection process, all stakeholders should be assured that the evaluation was fair and impartial. Protests arise when an offeror feels that this was not the case. The Comptroller General has ruled that an award will not be overturned unless there is no rational basis for the award decision or unless the RFP criteria are not followed. Procuring agencies have an obligation to document their source selection decisions such that a reviewing body can determine whether those actions were in fact proper. (See KMS Fusion, Inc., B-242529, May 8, 1991, 91-1 CPD.)

1.16.3 Electronic Record Documentation. All required pre- and post-award contract and financial assistance documentation shall be maintained in electronic form, shall reside in STRIPES, and shall be considered the official contract file, except for any documents required by regulation to be maintained in paper copy. Email correspondence that is considered source selection information should be saved as an electronic file and added to STRIPES. When transmitting procurement sensitive data electronically, the contracting officer must take adequate precautions to ensure data does not end up in the wrong hands. In cases where sensitive data is transmitted, the use of password-protected files or file encryption is required.

1.17 Debriefings. Contracting officers are required to provide debriefings, if requested, to all offerors. Debriefings should be informative and professionally presented; they should never degenerate into debates over the propriety of the source selection process. The general approach should be to address the offeror's reasonable questions about the procurement, and to provide information to the extent possible without prejudicing the procurement, should it be reopened for any reason. Because most of DOE's FAR 15 procurements are for services, this guidance is written with services procurements in mind (see 4 C.F.R. § 21.2(a)(2); 31 U.S.C. § 3553(d)(4)(B) and 41 U.S.C. § 3303).

1.17.1 Effect of the Debriefing Schedule on Potential Protests. Under FAR part 15, a company cannot pursue a GAO protest on an issue other than an RFP issue before its debriefing, if that debriefing was requested and required. GAO will dismiss a protest filed before the debriefing as premature. Therefore, it is best to schedule the debriefing very soon after the offeror is no longer under consideration for award, whether at the pre- or the post-award stage.

1.17.2 Preparing for Debriefings. The contracting officer should plan for the debriefing well before award is made. Based on the particulars of the procurement, the contracting officer should devise a debriefing strategy to provide as much information as the offeror might reasonably request and should prepare for likely offeror questions. A debriefing script and agenda template is available in the STRIPES library.

1.17.3 Questions from Offerors. Contracting officers should request that offerors provide any questions in writing at least one day before the debriefing. This gives the agency time to review the questions and provide a more cogent answer. Even if questions are provided in advance, this does not prohibit additional questions at the debriefing.

1.17.4 Timing. Once a "required and requested" debriefing is held, two clocks start to run on the offeror's time for filing a protest.

1.17.4.1 Determination of Forum. The first clock is used to determine whether GAO will consider the protest. Generally, a protest must be filed with GAO within ten calendar days after the debriefing. Protesters can also pursue protests at the Court of Federal Claims, which does not have a ten-calendar-day time limit for filing protests.

1.17.4.2 Determination of Whether to Stay or Suspend. The second clock determines whether the agency will have to stay the award or suspend performance of the protested contract. If a protest is filed at GAO, and GAO notifies DOE of the protest within either five calendar days after debriefing or ten calendar days after contract award, whichever is later, DOE must suspend performance of the protested contract. If GAO notifies DOE of a protest filed before award is made, DOE must stay the award of the protested contract. In both cases, the stay is in place until GAO decides the protest or until DOE overrides the stay.

1.17.5 Preaward Stage. Debriefings may be held for offerors excluded from the competitive range. Through these debriefings, offerors gain insight on the evaluation of their proposals and how their proposals could be improved for future procurements.

1.17.5.1 Timing of Preaward Debriefings. Debriefings should occur as soon as possible after the offeror’s request, which is due no later than three days after notification of not being included in the competitive range (FAR 15.206-2(a)(1))

1.17.5.2 Delay of Preaward Debriefing by the Contracting Officer. The contracting officer may delay the debriefing until after award, based on compelling reasons that a preaward debriefing is not in the best interest of the Government. The contracting officer is required to document the rationale for such a decision. In this scenario, the unsuccessful offeror cannot protest until after the debriefing; if the protest is successful, procurement actions after exclusion of the offeror may be nullified.

1.17.5.3 Delay of Preaward Debriefing by the Offeror. The offeror may request that the Government delay the preaward debriefing until after award. In this event, the contracting officer should indicate in writing that debriefing is being postponed at the offeror's request. Given this scenario, the GAO will generally not find a protest based on the debriefing to be timely.

1.17.6 Post-Award Stage. Debriefings may be held for all offerors, upon request, who did not receive a debriefing at the pre-award stage. This applies to both successful and unsuccessful offerors.

1.17.6.1 Optimal Schedule for Unsuccessful Offerors. Ideally, the contracting officer transmits a letter (template available in the STRIPES library) to the unsuccessful offeror on the day of award ("day zero"), informing the unsuccessful offeror of its right to request a debriefing within three days of receipt of notice, and offering a date for the debriefing should one be requested. The offered date will optimally be between four and eight days after the letter is transmitted. An unsuccessful offeror does not have the right to any particular schedule or location for the debriefing.

1.17.6.2 Unsuccessful Offerors: Special Considerations. Preparation and submission of a proposal is time-consuming, costly, and sometimes an emotional exercise for the offeror's proposal team. Thus, disappointed offerors may react with resentment, suspicion, and anger. As a consequence, some disappointed offerors view debriefings as an opportunity to vent, point out the questionable judgment of the selecting official and evaluators, and identify a basis to overturn the decision through a bid protest. Although Government personnel might respond to this by offering meager information, this is not desirable. Usually it is more productive to use the debriefing to discharge the emotion, demonstrate the procedural and substantive credibility of the decision, and convince the offeror that a basis for protest does not exist. The goal is for the offeror to come away with an understanding of why its proposal was not selected. There are usually one or two elements that negatively affected the evaluation; this should be summarized for the offeror's benefit. For example, the offeror might have decided that it understood the Government's requirements better than the Government and pursued a strategy of offering what the offeror deemed best, despite the RFP requirements. In cases such as this, be prepared to review the RFP requirements. If discussions were held, it can be helpful to point out to an offeror where the issue(s) that led to its lack of success were raised in discussions.

1.17.6.3 Information to be Provided in Debriefings. FAR 15.301-1(c) and 15.206-2(c) set forth detailed lists of information to be provided; these provide a good agenda for the debriefing. Much of this information can be provided in advance of the actual debriefing, either in the unsuccessful offeror letter or in a later communication prior to the debriefing. It is a better practice to provide the debriefed offeror with a copy of its own evaluated strengths and weaknesses before the debriefing. This saves time for everyone, and prevents disagreement over what was said, gives the offeror a chance to get past any emotional reaction to the evaluated strengths and weaknesses. This also tends to improve the questions asked at the debriefing.

1.17.4 Dialogue Surrounding Debriefings. Because the debriefing rules require the Government to provide reasonable responses to relevant questions about source selection procedures and how they were followed, it is virtually impossible to provide a complete debriefing to an offeror without an opportunity for dialogue, either in person or by telephone.

1.17.5 Interpretation of "Overall Ranking" and "Technical Rating." When FAR 15.301-1(c)(1)(iii) refers to providing the overall ranking of all offerors, it means the ranking when there was a combined ranking including cost/price and technical factors. It does not require the contracting officer to provide just the technical rankings or just the cost/price rankings. DOE generally has not performed such rankings in source selections, nor are such rankings required. When FAR 15.503-1(c)(1)(ii)refers to providing the technical rating of the awardee and of the debriefed offeror, it does not mean that every factor and subfactor score must be revealed. If a competitive range was drawn and discussions were held, there is no requirement to provide the offeror with its or the awardee’s pre-discussion scores. There is no requirement to provide the offeror with the awardee's subfactor scores. Providing more than the required information on the awardee's scores can be regrettable if the procurement must be reopened for corrective action, a change in requirements, or some other reason. Moreover, in some instances, providing specific scoring information could violate the prohibition against providing point-by-point comparisons between the awardee's and the debriefed offeror's proposals.

1.17.6 Provision of Ratings When Source Selection Team Is Divided. In the unlikely event that the SSO disagrees with aspects of the technical evaluation committee's report, either with respect to scores or to the strengths and weaknesses, provide the information upon which the selection was based -- the SSO’s evaluation.

1.17.7 Information that May Not Be Provided. FAR 15.206-2(d) and 15.301-1(d) provide detailed lists of information that must not be provided in the debriefing. The prohibition on providing "point-by-point comparisons of the debriefed offeror's proposal with those of other offerors" is key. For this reason, it is advisable that the Government not have the other offerors' proposals or the evaluation of those other offerors in the debriefing room. Some agencies take the position that revealing detailed score information about the awardee may constitute providing point-by-point comparisons. An exception to these limitations exists in the form of an "open book debriefing" described below.

1.17.8 Personnel Attending Debriefings. The FAR notes that the contracting officer is responsible for the debriefing, but anticipates support from technical and legal counsel as needed. Neither the SSO, the SEB chairperson, nor the individual SEB team members are required to attend. Normally it is sufficient to have the contracting officer, a technical evaluator, the executive secretary, and legal counsel attend the debriefing. It is a good practice to have counsel present, particularly if the offeror indicates that its legal counsel will attend the debriefing, there are indications that a protest may be filed, or that the procurement is significant based on dollar size, complexity, or other sensitivity. On occasions where the contracting officer does not have the knowledge or expertise to explain the cost evaluation, it is advisable to bring someone who has that knowledge and expertise. Notwithstanding this, the presence of other officials in the source selection process (such as the SSO and the SEB chair) may aid in the presentation to the disappointed offeror and add to the credibility of the source selection. These officials are particularly useful in explaining the basis for the selection decision and the results of the SEB's evaluation of the offeror's proposal. As the number and type of participants in the debriefing grows, however, the contracting officer must diligently prepare to control the communication. It is important that all Government participants be thoroughly prepared to defend their evaluations. Coordination with legal counsel is critical.

1.17.9 Common Problems in Debriefings. At the outset, the contracting officer should state the purpose of the debrief, which is to provide constructive feedback. The debrief is not intended to change the outcome of the source selection decision.

1.17.9.1 Debating. As stressed above, the debriefer is charged with providing information to the offeror about the procurement, not with reconsidering or debating it. Thus, it is more important to listen to complaints about the evaluation results than to respond to them. It is especially important not to speculate about what would have happened if the offeror had proposed something different or a lower price.

1.17.9.2 Indefinite Conclusion. The debriefing should have a definite conclusion so that the time when the offeror's protest clocks begin to run is clear. Once DOE has provided the required information and the offeror has finished asking its questions about whether proper source selection procedures were followed, the contracting officer should indicate that the debriefing is concluded. This means that it is strongly ill-advised to tell a protester that "we'll get back to you" on a topic. If necessary, take a short break during the debriefing and seek whatever advice or information or document is needed. A well-prepared debriefing team almost never needs an additional day to provide required information or respond to relevant questions.

1.17.10 Recording the Debriefing. The Government is not required to record the debriefing nor permit the debriefed offeror to make an audio or video recording. DOE contracting officers have generally denied offerors' requests to record a debriefing. If the contracting officer considers agreeing to a request to record the debriefing, he or she should insist that two identical recordings be made and one be left with the agency. This will avoid disputes over whether the recording was altered in some way. The contracting officer must prepare a summary of the debriefing and include it in the contract file.

1.17.11 Untimely Debriefing Requests Should Be Accommodated. If an offeror does not request a debriefing in a timely fashion, but later requests a debriefing, the better practice is to provide the debriefing but to be clear that it is an accommodation, not a "requested and required" debriefing. The contracting officer should, however, insist that the request be in writing and should include documentation in the file that the debriefing was not timely requested.

1.17.12 Debriefing the Awardee. While debriefings are commonly provided to unsuccessful offerors, FAR 15.301(a)(1) allows for debriefings of the awardee, as well.

1.17.13 Debriefs in Protest Situations. Sometimes an offeror will protest or state its intent to protest before the debriefing. This does not affect its right to a debriefing. In these cases, it is prudent to involve legal counsel.

1.17.14 Caucuses During the Debrief. It is advisable to take breaks during the debriefing if the Government needs to caucus concerning a question. Such discussion should take place in a different room and out of the hearing of the offeror. In addition, a break can be useful to permit the offeror to consolidate its questions and recover its composure.

1.17.15 Do Not Obsess. While the debriefers should make every effort to be accurate during the debriefing, keep in mind that the statements made in a debriefing will virtually never form the basis of a GAO decision to sustain a protest. There are legions of denied protests where the information provided at the debriefing was inaccurate in some way or where the protester claims it was told one thing at the debriefing while the evaluation record shows the opposite. Moreover, GAO will not address the quality of the debriefing in a protest decision.

1.18 SEB Lessons Learned.

As mentioned above, MA-621 must collect and disseminate SEB lessons learned. A template for documenting SEB lessons learned is available in the STRIPES Library.

1.18.1 Documentation Requirement. SEBs must identify (through practices such as interviews, and direct observation) and document potential lessons learned through all phases of the acquisition, from requirements development, acquisition planning, solicitation, and award, including solicitations that were cancelled and awards that were cancelled or terminated due to a protest (if applicable), and for acquisitions whose dollar value exceeds $25 million, each SEB shall document lessons learned using the template. The lessons learned should be submitted to MA-621 via email within 45 calendar days of the completion of debriefings. For acquisitions whose dollar value is less than $25 million, it is recommended that SEB's document lessons learned using the template, and make them part of the contract file.

1.18.2 Lessons Learned Database. MA-621 will maintain a database of all DOE SEB lessons learned for acquisitions whose dollar value exceeds $25 million. MA-621 will analyze the lessons learned submitted to determine root causes and identify appropriate actions, validate the lessons learned to ensure that the root causes are understood that the appropriate lessons had been identified, and monitor the database for trends that develop.

1.18.3 Lessons Learned Dissemination. MA-621 will disseminate the lessons learned to each SEB within thirty days of the SEB being formally established. Any trend analysis that exists will accompany the lessons learned.

2.0 List of Attachments

1 – Non-Disclosure Agreement for Non-Federal Evaluators
2 – Government Notice for Handling of Proposals

Attachment 1 – Conflict of Interest Non-Disclosure Agreement for Non-Federal Evaluators

Conflict of Interest and Non-Disclosure Acknowledgement

In anticipation of my provision of advisory and support services for the Department of Energy under Contract Number [INSERT CONTRACT NUMBER],

I, ______________________________ (Print Name), acknowledge the following:

(a) I understand that during the course of proposal evaluations under this contract, I may obtain access to confidential or proprietary business, technical, or financial information belonging to the Government or other entities, including but not limited to Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), data which has not been released or otherwise made available to the public;

(b) I have read, and am familiar with, the applicable restrictions regarding organizational and consultant conflicts of interest set forth at FAR Subpart 9.5, DEAR 952.209-72, DEAR 970.0371-6 and (name of Contractor) policies and procedures;

(c) To the best of my knowledge and belief, no conflict of interest exists that may--

(1) Result in my participation on a particular matter involving a procurement that will have a direct and predictable effect upon my financial interest;

(2) Diminish my capacity to impartially assist in the review of applications in response to a solicitation; or

(3) Result in a biased opinion or unfair advantage.

(d) In making the above statement, I have considered all the following factors that might place me in a position of conflict, real or apparent, regarding proposal information:

(1) All my stocks, bonds, other outstanding financial interests or commitments;
(2) All my employment arrangements (past, present, and under consideration); and
(3) All financial interests and employment arrangements of my spouse, minor children, and other members of my immediate household as well as my general partners, or any organization in which I serve as an officer, director, or trustee, or with whom I am negotiating for employment.

(e) I have a continuing obligation to disclose any circumstance that may create an actual or apparent conflict of interest. If I learn of any such conflict, I will report it immediately to my supervisor, the Laboratory legal counsel and as otherwise required by Laboratory policy. The Laboratory Contractor, will, in turn, appropriately advise the Contracting Officer and/or his or her designated representative, and I will perform no more duties related to the procurement until I receive instructions on the matter.

(f) I agree to treat this information as proprietary and confidential and comply with agency procedures for the protection of such information (including electronic information) and use my best efforts to safeguard such information. I will not disclose the contents of, nor release, any such information to anyone either during or after the period of performance of Contract Number [INSERT CONTRACT NUMBER] other than:

(1) To individuals within my organization that are directly concerned with the performance of this contract and who have executed this Conflict of Interest and Non-Disclosure Acknowledgement;

(2) To other individuals designated by the DOE Contracting Officer; or

(3) Pursuant to an order from a court of competent jurisdiction.

(g) Whenever DOE furnishes any proposal information to me, I agree to use such information only for the purposes stated in a task or subtask assignment and to treat the information obtained in confidence. Further, I will not use such information for my own private gain or the private gain of others. This requirement for confidential treatment applies to information obtained from any source, including the offeror, without restriction. Any notice of restriction placed on such information by either DOE or the offeror shall be conspicuously affixed to any reproduction or abstract thereof and its provisions strictly complied with. Upon completion of my duties, I will return all copies to the DOE office that initially furnished such information.

Signature/Date: ____
Name/Title: ____
Organization: ____
Phone number: ____
Email address: ____

Return to Contracting Officer/Selection Official

Attachment 2 – Government Notice for Handling Proposals

Government Notice for Handling Proposals

This proposal shall be used and disclosed for evaluation purposes only, and a copy of this Government notice shall be applied to any reproduction or abstract thereof. Any authorized restrictive notices which the submitter places on this proposal shall also be strictly complied with. Disclosure of this proposal outside the Government for evaluation purposes shall be made only to the extent authorized by, and in accordance with, the procedures in DEAR subsection 915.207-70.

(End of Notice)