

Summary of FAR Provisions

Federal Acquisition Regulations (FAR)

- Jointly prepared, issued, and maintained by Secretary of Defense, Administrator of General Services, and Administrator of National Aeronautics and Space Administration
- Govern acquisition of goods and services by Federal Government agencies
- Legally binding for federal Government acquisitions and procurements
- Available online at <https://www.acquisition.gov/far/index.html>
- Federal agencies may issue additional regulations to implement, or supplement the FAR; for example:
 - Defense Federal Acquisition Regulations Supplement (DFARS)
 - Prepared, issued, and maintained by Secretary of Defense
 - Provide additional policies that implements and supplement the FAR
 - Provides additional guidance that governs acquisition of goods and services by Department of Defense agencies
 - Legally binding for Department of Defense acquisitions and procurements
 - Available online at <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/>
 - Navy and Marine Corps Acquisition Regulation Supplement (NMCARS)
 - Prepared, issued, and maintained by Secretary of the Navy
 - Provide additional policies that implements and supplement the FAR and DFARS
 - Provides additional guidance that governs acquisition of goods and services by Navy and Marine Corps
 - Legally binding for Navy and Marine Corps acquisitions and procurements
 - Available online at <http://farsite.hill.af.mil/vfnapsa.htm>
- FAR consists of:
 - Subchapter A, General
 - Part 1, Federal Acquisition Regulations System
 - Part 2, Definitions of Words and Terms
 - Part 3, Improper Business Practices and Personal Conflicts of Interest
 - Part 4, Administrative Matters
 - Subchapter B, Competition and Acquisition Planning
 - Part 5, Publicizing Contract Actions
 - Part 6, Competition Requirements
 - Part 7, Acquisition Planning
 - Part 8, Required Sources of Supplies and Services
 - Part 9, Contractor Qualifications
 - Part 10, Market Research
 - Part 11, Describing Agency Needs

- Part 12, Acquisition of Commercial Items
- Subchapter C, Contracting Methods and Contract Types
 - Part 13, Simplified Acquisition Procedures
 - Part 14, Sealed Bidding
 - Part 15, Contracting by Negotiation
 - Part 16, Types of Contracts
 - Part 17, Special Contracting Methods
 - Part 18, Emergency Acquisitions
- Subchapter D, Socioeconomic Programs
 - Part 19, Small Business Programs
 - Part 20, Reserved
 - Part 21, Reserved
 - Part 22, Application of Labor Laws to Government Acquisitions
 - Part 23, Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace
 - Part 24, Protection of Privacy and Freedom of Information
 - Part 25, Foreign Acquisition
 - Part 26, Other Socioeconomic Programs
- Subchapter E, General Contracting Requirements
 - Part 27, Patents, Data, and Copyrights
 - Part 28, Bonds and Insurance
 - Part 29, Taxes
 - Part 30, Cost Accounting Standards Administration
 - Part 31, Contract Cost Principles and Procedures
 - Part 32, Contract Financing
 - Part 33, Protests, Disputes, and Appeals
- Subchapter F, Special Categories of Contracting
 - Part 34, Major System Acquisition
 - Part 35, Research and Development Contracting
 - Part 36, Construction and Architect-Engineer Contracts
 - Part 37, Service Contracting
 - Part 38, Federal Supply Schedule Contracting
 - Part 39, Acquisition of Information Technology
 - Part 40, Reserved
 - Part 41, Acquisition of Utility Services
- Subchapter G, Contract Management
 - Part 42, Contract Administration and Audit Services
 - Part 43, Contract Modifications
 - Part 44, Subcontracting Policies and Procedures
 - Part 45, Government Property
 - Part 46, Quality Assurance
 - Part 47, Transportation
 - Part 48, Value Engineering
 - Part 49, Termination of Contracts
 - Part 50, Extraordinary Contractual Actions

- Part 51, Use of Government Sources by Contractors
- Subchapter H, Clauses and Forms
 - Part 52, Solicitation Provisions and Contract Clauses
 - Part 53, Forms
- Appendix, Cost Accounting Preambles and Regulations
- Index

FAR Part 1, Federal Acquisition Regulations System

- Sets forth basic policies and general information about the Federal Acquisition Regulations including purpose, authority, applicability, issuance, arrangement, numbering, dissemination, implementation, supplementation, maintenance, administration, and deviation

FAR Part 2, Definitions of Words and Terms

- Defines words and terms that are frequently used in FAR
- Provides cross-references to other definitions in FAR of same word or term
- Provides for incorporation of these definitions in solicitations and contracts by reference

FAR Part 3, Improper Business Practices and Personal Conflicts of Interest

- Prescribes policies and procedures for avoiding improper business practices and personal conflicts of interest, and for dealing with their apparent or actual occurrence
- Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none
- Transactions relating to expenditure of public funds require highest degree of public trust and an impeccable standard of conduct
- General rule is to avoid strictly any conflict of interest or even appearance of a conflict of interest in Government-contractor relationships
- No Government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who:
 - Has or is seeking to obtain Government business with employee's agency
 - Conducts activities that are regulated by employee's agency
 - Has interests that may be substantially affected by performance or non-performance of employee's official duties
- Government officers and employees are prohibited from participating personally and substantially in any particular matter that would affect financial interests of any person with whom employee is seeking employment
- Former Government employees are prohibited from performing certain activities, including representation of a contractor before Government in relation to any contract or other particular matter involving specific parties on which former

employee participated personally and substantially while employed by Government

- Release of information related to procurements and other contractor information both before and after award may be prohibited by Privacy Act, Trade Secrets Act, and other laws
- Using non-public information to further an employee's private interest or that of another, or engaging in a financial transaction using non-public information are prohibited
- Present or former officials of United States, or a person who is acting or has acted for or on behalf of, or who is advising or has advised United States with respect to, a federal agency procurement must not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information to any person other than a person authorized, in accordance with applicable agency regulations or procedures, by agency head or Contracting Officer to receive such information before award of a federal agency procurement contract to which information relates
- A person must not, other than as provided by law, knowingly obtain contractor bid or proposal information or source selection information before award of a federal agency procurement contract to which information relates
- If an agency official, participating personally and substantially in a federal agency procurement for a contract in excess of simplified acquisition threshold (\$150K), contacts or is contacted by a person who is an offeror in that federal agency procurement regarding possible non-federal employment for that official, official must:
 - Promptly report contact in writing to official's supervisor and to agency ethics official; and
 - Either reject possibility of non-federal employment, or disqualify himself or herself from further personal and substantial participation in that federal agency procurement until such time as agency authorizes official to resume participation in that procurement
- A former official of a federal agency may not accept compensation from a contractor that has been awarded a competitive or sole source contract, as an employee, officer, director, or consultant of contractor within a period of 1 year after such former official served in certain capacities with respect to a contract in excess of \$10,000,000

FAR Part 4, Administrative Matters

- Prescribes policies and procedures relating to the administrative aspects of contract execution, contractor-submitted paper documents, distribution, reporting, retention, and files

FAR Part 5, Publicizing Contract Actions

- Prescribes policies and procedures for publicizing contract opportunities and award information

- “Contract action” is an action resulting in contract, including actions for additional supplies or services outside existing contract scope, but not including actions within scope and terms of existing contract, such as contract modifications issued pursuant to Changes clause, or funding and other administrative changes
- Contracting Officers must publicize contract actions for acquisitions of supplies and services in order to:
 - Increase competition
 - Broaden industry participation in meeting Government requirements
 - Assist small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns in obtaining contracts and subcontracts
- Publicizing contract actions
 - Publicize proposed contract actions ≥ \$ 25K by synopsis in FEDBIZOPPS (www.fedbizopps.gov)
 - Publicize proposed contract actions > \$15K, but < \$25K by one of several means, including, but not limited to:
 - Displaying a notice of solicitation or copy of solicitation in public place accessible by general public at Government installation
 - Displaying notice of solicitation or copy of solicitation by any appropriate electronic means
 - Notice must be published at least 15 days before issuance of solicitation, except in certain prescribed circumstances
 - Notice must:
 - Include clear and concise description of supplies or services that is not unnecessarily restrictive of competition and will allow prospective offerors to make an informed business judgment as to whether copy of solicitation should be requested
 - Include statement that all responsible sources may submit a response which, if timely received, must be considered by agency
 - Remain posted for at least 10 days or until after proposals or quotations have been submitted, or bids have been opened, whichever is later
 - Identify intended source and statement of reason justifying lack of competition in case of non-competitive contract actions, including those that do not exceed simplified acquisition threshold (\$150K)
- Contracting Officer shall allow at least 30-days from date of issuance of solicitation to afford potential offerors reasonable opportunity to respond to solicitation for each proposed contract action for non-commercial goods or services, if proposed contract action is expected to exceed simplified acquisition threshold (\$150K)
 - Contracting Officer may allow less than 30-days from date of issuance of solicitation for:
 - Acquisition of commercial items less than \$25K

- Acquisition of non-commercial goods or services in amount estimated to exceed \$25K, but less than simplified acquisition threshold (\$150K)

FAR Part 6, Competition Requirements

- Prescribes policies and procedures to promote full and open competition in acquisition process and to provide for full and open competition, full and open competition after exclusion of sources, other than full and open competition, and advocates for competition
- Requires that Contracting Officers promote and provide for full and open competition in soliciting offers and awarding Government contracts, with certain limited exceptions
 - Contracting without providing for full and open competition, or full and open competition after exclusion of sources cannot be justified on basis of:
 - Lack of advance planning by requiring activity
 - Concerns related to funds availability (e.g., funds will expire if procurement involves full and open competition)
- Full and Open Competition After Exclusion of Sources
 - FAR 6.2 stipulates that Contracting Officers may set aside solicitations to allow only certain business concerns to compete in order to fulfill statutory requirements relating to small business concerns:
 - Small Businesses (FAR 6.203)
 - HUBZone Small Businesses (FAR 6.204)
 - Service-Disabled Veteran-Owned Small Businesses (FAR 6.205)
 - Economically Disadvantaged Women-Owned Small Businesses (EDWOSB) (FAR 6.206)
 - Women-Owned Small Businesses (WOSB) (FAR 6.207)
 - Local Firms During a Major Disaster or Emergency (FAR 6.208)
 - When using full and open competition after exclusion of sources, Contracting Officer shall solicit offers from as many potential sources as is practicable under circumstances
- Other Than Full and Open Competition
 - FAR 6.3 provides several exceptions to requirements for full and open competition
 - Only one responsible source and no other supplies or services will satisfy agency requirements (FAR 6.302-1)
 - Unusual and compelling urgency (FAR 6.302-2)
 - Industrial mobilization; engineering, developmental, or research capability; or expert services (FAR 6.302-3)
 - International agreement (FAR 6.302-4)
 - Authorized or required by statute (FAR 6.302-5)
 - National security (FAR 6.302-6)
 - Public interest (FAR 6.302-7)
 - Preceding exceptions are far more restrictive than they might appear at first glance

- Only one responsible source
 - Requires written determination and finding that there is a reasonable basis to conclude agency's minimum needs can only be satisfied by:
 - Unique supplies or services available from only one or a limited number of sources
 - Only one or a limited number of suppliers with unique capabilities
 - Specified makes and models of technical equipment and parts based upon agency's standardization program
 - Requires demonstrating existence of limited rights in data, patent rights, copyrights, or secret processes; control of basic raw material; or similar circumstances
- Unusual and compelling urgency
 - Requires written determination and finding that Government would be seriously injured, financially or otherwise, unless agency is permitted to limit number of sources from which it solicits bids or proposals
 - Must request offers from as many potential sources as is practicable under circumstances
- Industrial mobilization; engineering, developmental, or research capability; or expert services
 - Expert services limited to an expert to use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency
- Authorized or required by statute
 - Requires written determination and finding citing specific statute that expressly authorizes or requires that acquisition be made through another agency or from a specified source; for example:
 - American Bureau of Shipping - 46 USC 3316
 - Federal Prison Industries (UNICOR) – 18 USC 4124
 - Qualified non-profit agencies for blind or other severely disabled - 41 U.S.C. chapter 85
 - Government Printing and Binding - 44 USC 501-504
 - Sole source awards under 8(a) Program - 15 U.S.C. 637
 - Sole source awards under HUBZone Act of 1997 - 15 USC 657a
 - Sole source awards under Veterans Benefits Act of 2003 – 15 USC 657f
 - Sole source awards under WOSB Program – 15 USC 637(m)

- National security
 - Requires written determination and finding that disclosure of agency's needs would compromise national security unless agency is permitted to limit number of sources from which it solicits bids or proposals
 - Cannot be invoked merely because acquisition is classified, or merely because access to classified matter will be necessary to submit a proposal or to perform contract
 - Must request offers from as many potential sources as is practicable under circumstances
 - Public interest
 - Requires written determination and finding that full and open competition is not in public interest be made by Secretary of Defense
 - Require Congressional notification of determination not less than 30 days before award of contract
 - Brand-name description that specifies a particular brand-name, product, or feature of a product, peculiar to one manufacturer does not provide for full and open competition, regardless of number of sources solicited
 - Brand-name or equal descriptions must permit prospective contractors to offer products other than those specifically referenced by brand-name in order to provide for full and open competition
- Justification for Other Than Full and Open Competition
 - Required approval level contingent upon value of proposed contract
 - Less than \$700K approved by Contracting Officer
 - Greater than \$700K, but not exceeding \$13.5M approved by agency Advocate for Competition for procuring activity, Head of procuring activity, or designee who is a flag officer or GS-15
 - Over \$13.5M, but not exceeding \$93M approved by Head of procuring activity, or designee who is a flag officer or GS-15
 - Over \$93 million approved by Navy Senior Procurement Executive (i.e., Deputy Assistant Secretary of Navy (Acquisition and Procurement))
 - Justifications must be made available publicly:
 - Via posting on FEDBIZOPPS (www.fedbizopps.gov)
 - Posting on agency website
 - Justifications must remain posted for a minimum of 30 days
 - In case of a contract award based upon unusual and compelling urgency, justification shall be posted within 30 days after contract award
 - In case of a brand name justification based upon only one responsible source and no other supplies or services will satisfy agency requirements, justification shall be posted with solicitation

- Any interested party can protest contract award based upon sufficiency of justification

FAR Part 7, Acquisition Planning

- Prescribes policies and procedures for planning Government acquisitions
- Agencies shall perform acquisition planning and conduct market research for all acquisitions to ensure Government meets its needs in most effective, economical, and timely manner in order to promote and provide for:
 - Acquisition of commercial items or, to extent that commercial items suitable to meet agency's needs are not available, non-developmental items, to maximum extent practicable
 - Full and open competition to maximum extent practicable
 - Selection of appropriate contract type
 - Appropriate consideration of use of pre-existing contracts, including interagency and intra-agency contracts, to fulfill requirement, before awarding new contracts
- Written acquisition plans required for:
 - Acquisitions for production or services when total cost of all contracts for acquisition program is estimated at \$50 million or more for all years or \$25 million or more for any fiscal year; and
 - Any other acquisition considered appropriate by department or agency.
- Written plans are not required in acquisitions for a one-time buy
 - "One-time buy" refer to a single contract that covers all known present and future requirements
 - This exception does not apply to a multiyear contract or a contract with options or phases
- Program Manager, or other official responsible for the program, has overall responsibility for acquisition planning
- Acquisition planning should begin as soon as agency need is identified
- Requirements and logistics personnel should avoid issuing requirements on an urgent basis, or with unrealistic delivery or performance schedules, since it generally restricts competition and increases prices
- Acquisition plan includes statement of:
 - Identified need
 - Significant conditions affecting acquisition
 - Cost goals for acquisition and supporting rationale
 - Required capabilities or performance characteristics of supplies or performance standards for services being acquired and how they are related to need
 - Delivery or performance-period requirements
 - Trade-offs among various cost, capability or performance, and schedule goals
 - Technical, cost, and schedule risks and description of efforts planned or underway to reduce risk and consequences of failure to achieve goals
 - Plans and procedures to streamline acquisitions

- Prospective sources of supplies or services that can meet need
- How competition will be sought, promoted, and sustained throughout acquisition
- Rationale for selection of contract type
- Source-selection procedures for acquisition, including timing for submission and evaluation of proposals, and relationship of evaluation factors to attainment of acquisition objectives
- Budget estimates, how they were derived, and schedule for obtaining adequate funding
- Product or service descriptions and choice of product or service description types
- Priorities (particularly with regard to short delivery or performance schedule)
- Contractor versus Government performance
- Inherently Governmental functions
- Management system that will be used by Government to monitor contractor's effort
- Make or buy considerations
- Test and evaluation program of contractor and Government
- Logistics assumptions determining contractor or agency support, both initially and over life of acquisition, including:
 - Reliability, maintainability, and quality assurance requirements, including any planned use of warranties
 - Requirements for contractor data (including repurchase data) and data rights, their estimated cost, use to be made of data, and how data is related to need
 - Standardization concepts, including necessity to designate, in accordance with agency procedures, technical equipment as "standard" so that future purchases of equipment can be made from same manufacturing source
- Government-furnished property or information, including any associated considerations, such as availability or schedule for acquisition
- Environmental objectives
- Energy conservation objectives
- Security considerations
- Contract administration procedures, including how inspection and acceptance corresponding to work statement's performance criteria will be enforced for services
- Other considerations, such as standardization, environmental, energy conservation, or occupational safety and health
- Milestones for acquisition
 - Acquisition plan approval
 - Statement of work
 - Specifications
 - Data requirements
 - Completion of acquisition-package preparation

- Purchase request
 - Justification and approval for other than full and open competition and/or any required D&F approval, if applicable
 - Issuance of synopsis
 - Issuance of solicitation
 - Discussions with offerors, if applicable
 - Evaluation of proposals, audits, and field reports
 - Beginning and completion of negotiations
 - Contract preparation, review, and clearance
 - Contract award
- Identification of participants in acquisition plan preparation, including contact information for each
- It is Government policy to perform inherently Governmental activities with Government personnel, and subject commercial activities to forces of marketplace competition
 - Examples of functions considered to be inherently Governmental functions, or which shall be treated as such, include, but are not limited to:
 - Determination of agency policy, such as determining content and application of regulations, among other things
 - Determination of federal program priorities for budget requests
 - Direction and control of federal employees
 - Selection or non-selection of individuals for federal Government employment, including interviewing individuals for employment
 - Approval of position descriptions and performance standards for federal employees
 - Determination of what Government property is to be disposed of and on what terms
 - For federal procurement activities with respect to prime contracts:
 - Determining what supplies or services are to be acquired by Government
 - Participating as a voting member on any source selection boards
 - Approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria
 - Awarding contracts
 - Administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contractor performance, and accepting or rejecting contractor products or services)
 - Terminating contracts
 - Determining whether contract costs are reasonable, allocable, and allowable
 - Participating as a voting member on performance evaluation boards
 - Determination of budget policy, guidance, and strategy

- Examples of functions generally not considered to be inherently Governmental functions include, but are not limited to:
 - Services that involve or relate to budget preparation, including workload modeling, fact finding, efficiency studies, and should-cost analyses, etc.
 - Services that involve or relate to reorganization and planning activities
 - Services that involve or relate to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy
 - Services that involve or relate to development of regulations
 - Services that involve or relate to evaluation of another contractor's performance
 - Services in support of acquisition planning
 - Contractors providing assistance in development of statements of work
 - Contractors providing assistance in contract management, such as assisting with official evaluations of other contractors
 - Contractors working in any situation that permits or might permit them to gain access to confidential business information and/or any other sensitive information (other than situations covered by National Industrial Security Program)
 - Contractors providing information regarding agency policies or regulations, such as attending conferences on behalf of an agency, conducting community relations campaigns, or conducting agency training courses
 - Contractors participating in any situation where it might be assumed that they are agency employees or representatives (contractors must disclose the nature of their affiliation with the agency)
 - Contractors participating as technical advisors to a source selection board or participating as voting or non-voting members of a source evaluation board
 - Contractors providing inspection services
 - Contractors providing legal advice and interpretations of regulations and statutes to Government officials

Additional information regarding acquisition planning provided in DON Acquisition Plan Guide, which is available in N10 Contracting Toolbox section of MSC iNavy portal (<https://msc.navy.deps.mil/contracting-gpc/Shared%20Documents/DoN%20Acquisition%20Plan%20Guide.pdf>)

FAR Part 8, Required Sources of Supplies and Services

- Prescribes prioritization of sources of supplies and services for use by Government

- Except as otherwise provided by law, agencies shall satisfy requirements for supplies and services from, or through sources and publications listed below in descending order of priority:
 - Supplies
 - Inventories of requiring agency
 - Excess from other agencies
 - Federal Prison Industries, Inc.
 - Supplies on Procurement List maintained by Committee for Purchase from People Who Are Blind or Severely Disabled
 - Wholesale supply sources, such as stock programs of:
 - General Services Administration (GSA)
 - Defense Logistics Agency
 - Department of Veterans Affairs
 - Military inventory control points
 - Services on Procurement List maintained by Committee for Purchase from People Who Are Blind or Severely Disabled
 - Printing
 - Printing and related supplies must be done by, or through Government Printing Office (GPO) unless:
 - GPO cannot provide printing service
 - Printing is done in field printing plants operated by an executive agency
 - Printing is acquired by an executive agency from allotments for contract field printing
 - Printing is specifically authorized by statute to be done other than by GPO
 - Printing includes printing, binding, and blankbook work for use of an executive department, independent agency, or establishment of Government
 - Related supplies include supplies that are used and equipment that is usable in printing and binding operations
- If unable to satisfy requirements for supplies and services from preceding mandatory sources, agencies are encouraged to consider satisfying requirements from, or through non-mandatory sources listed below (not listed in any order of priority) before considering commercial sources (including educational and non-profit institutions):
 - Supplies
 - Federal Supply Schedules
 - Government-wide acquisition contracts
 - Multi-agency contracts
 - Any other procurement instruments intended for use by multiple agencies, including blanket purchase agreements (BPAs) under Federal Supply Schedule contracts
 - Services available through Federal Prison Industries, Inc.
- When satisfying requirements from non-mandatory sources, agencies must give due consideration to small business, veteran-owned small business, service-

disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including 8(a) participants), and women-owned small business concerns

- FAR Part 6, Competition Requirements, applies

FAR Part 9, Contractor Qualifications

- Prescribes policies, standards, and procedures pertaining to prospective contractors' responsibility; debarment, suspension, and ineligibility; qualified products; first article testing and approval; contractor team arrangements; defense production pools and research and development pools; and organizational conflicts of interest

FAR Part 10, Market Research

- Prescribes policies and procedures for conducting market research to arrive at most suitable approach to acquiring supplies and services
- Agencies must conduct market research appropriate to solicitation circumstances for:
 - Acquisitions with an estimated value in excess of simplified acquisition threshold (\$150K)
 - Acquisitions with an estimated value less than simplified acquisition threshold (\$150K) when adequate information is not available and circumstances justify its cost
 - Indefinite-delivery-indefinite-quantity (ID/IQ) contracts for a non-commercial item in excess of simplified acquisition threshold (\$150K)
 - On an ongoing basis, in order to take advantage of commercially available market research to identify capabilities of small businesses and new entrants in marketplace
- Agencies must use results of market research to:
 - Determine if sources capable of satisfying agency's requirements exist
 - Determine if commercial items or non-developmental items are available that:
 - Meet agency's requirements
 - Could be modified to meet agency's requirements
 - Could meet agency's requirements if those requirements were modified to a reasonable extent
 - Determine customary practices regarding customizing, modifying, or tailoring of items to meet customer needs and associated costs
 - Determine customary buyer financing, discounts, contract type and warranty provisions under which commercial sales of products and services are made
 - Determine requirements of any laws and regulations unique to goods or service being acquired
 - Determine availability of items that contain recovered materials and items that are energy efficient

- Determine number and status of potential sources
 - Determine distribution and support capabilities of potential suppliers
- When conducting market research, agencies should not request potential sources to submit more than minimum information necessary.
- Techniques for conducting market research may include any or all of following:
 - Contacting knowledgeable individuals in Government and industry regarding market capabilities
 - Reviewing results of market research undertaken within past 18 months to meet similar or identical requirements
 - Publishing formal requests for information in appropriate technical or scientific journals or business publications
 - Querying Government-wide database of contracts and other procurement instruments intended for use by multiple agencies available at <https://www.contractdirectory.gov/contractdirectory/> or other Government and commercial databases that provide information relevant to agency acquisitions
 - Participating in interactive, on-line communication among industry, acquisition personnel, and customers
 - Obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources
 - Reviewing catalogs and other generally available product literature published by manufacturers, distributors, and dealers or available on-line
 - Conducting meetings or holding pre-solicitation conferences to involve potential offerors early in acquisition process
- If market research indicates commercial or non-developmental items might not be available to satisfy agency needs, agency shall re-evaluate need and determine whether need can be restated to permit commercial or non-developmental items to satisfy agency's needs

FAR Part 11, Describing Agency Needs

- Prescribes policies and procedures for describing agency needs
- Agencies should:
 - Specify their needs in a manner designed to:
 - Promote full and open competition to maximum extent practicable with due regard to nature of goods or services to be acquired
 - Only include restrictive provisions or conditions to extent necessary to satisfy needs of agency or as authorized by law
 - State requirements for acquisition of goods or services in terms of:
 - Functions to be performed
 - Performance required
 - Essential salient characteristics
 - Define requirements in terms that enable and encourage offerors to supply commercial items, or, to extent that suitable commercial items are not available, offer non-developmental items, in response to solicitation

- Provide offerors of commercial items and non-developmental items an opportunity to compete in any acquisition to fill such requirements
- Modify requirements in appropriate cases to ensure that requirements can be met by commercial items or non-developmental items
- To extent practicable, give offerors an opportunity to comment on agency requirements or recommend tailoring of requirements documents and alternative approaches
 - Requiring agencies should not dictate detailed design solutions prematurely
- While use of performance specifications is preferred to encourage offerors to propose innovative solutions, use of brand name or equal purchase descriptions may be advantageous under certain circumstance.
 - Brand name or equal purchase descriptions must include, in addition to brand name, a general description of those salient physical, functional, or performance characteristics that an “equal” item must meet to be acceptable
 - Salient characteristics should be firm requirements
 - Agency requirements shall not be written so as to require a particular brand-name, product, or a feature of a product, peculiar to one manufacturer, thereby precluding consideration of a product manufactured by another company, unless:
 - Particular brand name, product, or feature is essential to Government’s requirements, and market research indicates other companies’ similar products, or products lacking one or more salient characteristics do not meet, or cannot be modified to meet, agency’s needs
 - Authority to contract without providing for full and open competition is supported by required justification and approval
 - Justification for contract without providing for full and open competition is publicly posted for acquisitions over \$25,000
- Time of delivery or required performance period is an essential contract element and shall be clearly stated
 - Contracting Officers shall ensure that delivery or performance schedules are realistic and meet requirements of acquisition
 - Schedules that are unnecessarily short or difficult to attain:
 - Tend to restrict competition
 - Are inconsistent with small business policies
 - May result in higher contract prices
 - Solicitations shall, except when clearly unnecessary, inform bidders or offerors of basis on which their bids or proposals will be evaluated with respect to time of delivery or performance period
 - If timely delivery or performance is unusually important to Government, liquidated damages clauses may be used
 - When establishing a contract delivery or performance schedule, consideration shall be given to applicable factors such as the:
 - Urgency of need

- Industry practices
- Market conditions
- Production time
- Transportation time
- Capabilities of small business concerns
- Administrative time for obtaining and evaluating offers and awarding contracts
- Time for contractors to comply with any conditions precedent to contract performance
- Time for Government to perform its obligations under contract (e.g., furnishing Government property)

FAR Part 12, Acquisition of Commercial Items

- Prescribes policies and procedures unique to acquisition of commercial items
- Implements federal Government's preference for acquisition of commercial items by establishing streamlined acquisition policies more closely resembling those of commercial marketplace
- "Commercial items" defined as goods (other than real property) or services customarily offered to, sold to, leased by, or licensed for use by general public or non-Governmental entities for non-Governmental purposes
 - Includes any item evolved from above described items that is not yet commercially available, but will be available in time to meet solicitation requirements
 - Includes any item that would satisfy above criteria, but for:
 - Modifications of a type customarily available in commercial marketplace, or
 - Minor modifications of a type not customarily available in commercial marketplace, but made available to meet federal Government requirements
 - "Minor modification" does not materially alter originally intended function or characteristics of item
 - Includes installation services, maintenance services, repair services, training services, or other services if:
 - Such services are procured for support of an item referred to above (regardless if provided by same source at same time), or
 - Source provides such services or similar services to general public contemporaneously under same or similar terms, or
 - Services are of a type offered and sold competitively in substantial quantities in commercial marketplace
 - Such services are based upon established catalog or market prices for specific purposes under standard terms and conditions
 - Includes non-developmental and commercial-off-the-shelf (COTS) items
 - "Non-developmental" means:
 - Any previously developed item of supply used exclusively for Governmental purposes by a federal, state or local

- Government agency, or a foreign Government with which the United States has a mutual defense cooperation agreement;
 - or
 - Any item described in the preceding definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring agency; or
 - Any item of supply being produced that does not meet the requirements of either of the preceding definitions solely because the item is not yet in use
 - Non-developmental items are considered commercial if item is determined to have been developed exclusively at private expense and sold competitively in substantial quantities to general public, or multiple state or local Government entities
 - COTS means any commercial item defined above that is:
 - Sold in substantial quantities in commercial marketplace; and
 - Offered to Government under contract or subcontract at any tier, without modification and in same form as sold in commercial marketplace; and
 - Does not include bulk cargo, such as agricultural or petroleum products
- Standard Form 1449, Solicitation/Contract/Order for Commercial Items, required if acquisition is expected to exceed simplified acquisition threshold (\$6.5M for commercial items);
 - Use of the SF 1449 is non-mandatory but encouraged for commercial acquisitions not exceeding simplified acquisition threshold
 - Very few contract clauses or provisions required
- Contracting Officers may use FAR Part 12 in conjunction with policies and procedures described in FAR Parts 13, 14, or 15, as appropriate
- Does not apply to acquisition of commercial items:
 - Using Government-wide commercial purchase card
 - Using imprest funds
 - Using Standard Form 44
 - Purchased directly from another federal agency
- Streamlined solicitation process closely resembles commercial marketplace practices
 - Simplified procedures authorized by FAR Part 13 used to maximum extent practicable for acquisitions exceeding simplified acquisition threshold of \$150K (\$6.5M for commercial items), including options
 - Description in solicitation must contain sufficient detailed information for potential offerors to understand type of product or service being sought, and how it will be used in terms of its function, performance requirements, or essential characteristics

- Offerors typically allowed to propose more than one product that will meet Government need
- Very few required contract clauses and provisions
- Can combine synopsis and issuance of solicitation into single document
 - Not necessary to post synopsis 15 days before issuance of solicitation as required by FAR Parts 13, 14 or 15
 - Contracting Officer has discretion regarding allowing less than 30 days between issuance of solicitation and quotation submission taking into consideration upon commercial practices, unless acquisition is covered by World Trade Organization Agreement on Government Procurement or Free Trade Agreement
- Streamlined quotation submission process closely resembles commercial marketplace practices
 - Oral solicitation may be used in limited circumstances
 - Offerors not required to furnish technical data beyond what is customarily provided with any commercial item or process
 - Government has only those rights specified in license contained in any addendum to contract (i.e., offerors not required to relinquish rights to use, modify, reproduce, etc., unless mutually agreed to by parties)
- Streamlined evaluation process closely resembles commercial marketplace practices
 - Contracting Officer has broad discretion in selecting appropriate evaluation procedures
 - May utilize FAR Part 13 procedures, or one or more evaluation procedures described in FAR Parts 14 or 15
 - Formal evaluation plans, establishing competitive range, conducting discussions, and scoring quotations or offers not required
 - Selection criteria need not be more detailed than technical capability, price and past performance
 - Technical capability may be evaluated by how well offered product meets requirements versus predetermined evaluation factors
- Relies upon contractors' existing quality assurance systems as substitute for Government inspection and testing before acceptance, unless customary market practices for commercial item being acquired include customer in-process inspection
 - Any in-process inspection by Government shall be conducted in a manner consistent with commercial practice
- FAR Part 6, Competition Requirements, applies
- FAR Part 19, Small Business Programs, applies
- FAR Part 25, Foreign Acquisition, requirements (Buy American Act, Trade Agreements Act, etc.) applies

FAR Part 13, Simplified Acquisition Procedures

- Prescribes policies and procedures for acquisition of non-commercial supplies and services, including construction, research and development, and commercial items
- Applies in instances in which:
 - Aggregate amount of acquisition does not exceed simplified acquisition threshold (\$150K for non-commercial items, or \$6.5M for commercial items)
 - Goods or services not available through required sources in FAR Part 8
 - No other procurement instrument is in place to satisfy requirement
- Intended for well-defined requirements
- Advantages:
 - Shorter solicitations
 - Faster turnaround times
 - Less paperwork, less manpower, and reduced administrative costs for Government and contractor
 - Promotes small business opportunities
 - Acquisitions exceeding micro-purchase threshold (\$3,500), but not exceeding simplified acquisition threshold (\$150K for non-commercial items, or \$6.5M for commercial items) are set-aside for small businesses
- Uses one of following acquisition methods:
 - Government-Wide Purchase Card
 - Used primarily for micro-purchases (\leq \$3,500)
 - Pre-priced Government contracts are exceptions (\leq \$25K)
 - Commonly acquired items include:
 - Office supplies
 - Furniture
 - Electronics
 - Non-personal services
 - Cardholder responsible for following simplified acquisition procedures, maximizing competition, and fair and reasonable pricing
 - Purchase Order
 - Offer by Government to buy supplies or services, at stated price in order and in accordance with specified terms and conditions contained in order
 - Award amount is greater than micro-purchase threshold (\$3,500), but does not exceed simplified acquisition threshold (\$150K for non-commercial items, or \$6.5M for commercial items)
 - Usually awarded unilaterally by Contracting Officer
 - Offeror quotations are not binding
 - Offer becomes a binding contract when contractor performs or signs order
 - Contract may be unpriced if impractical to obtain pricing in advance

- Monetary limitations placed on order, subject to adjustment when price is determined
 - May be solicited orally or in writing
 - Award forms
 - SF 1449 - Solicitation/Contract/Order for Commercial Items
 - DD 1155 – Order for Supplies or Services
 - SF 1442 - Solicitation, Offer and Award (Construction, Alteration or Repair)
- Blanket Purchase Agreements
 - Used for repetitive needs for supplies and services
 - Involves establishing “charge account” with qualified sources of supply
 - Customer receives purchased goods or services before paying for them (i.e. no up-front funding obligation)
 - BPA Forms
 - SF 1449, Solicitation/Contract/Order for Commercial Items, or
 - DD 1155, Order for Supplies or Services
 - Orders are placed through verbal or written “calls” to contractor
 - If not otherwise limited, individual calls cannot exceed simplified acquisition threshold (\$150K for non-commercial items, or \$6.5M for commercial items)
 - Government only obligated to pay for placed orders
 - Contractor can only accept calls from authorized “callers”
- Imprest Funds & Third Party Drafts
 - Imprest fund is fixed-cash or petty-cash fund in form of currency or coin that has been advanced as “funds held outside of Treasury”
 - Used in rare circumstances where electronic funds transfer (EFT) method of payment is waived for:
 - National security
 - Military operations
 - Natural disasters
 - Foreign Government does not support EFT payment
 - Cash payments not-to-exceed \$500 unless authorized at a higher level by Agency Head
 - Third Party Draft
 - Check-like payment instrument used by federal agency, drawn against and paid by an non-Government service provider that may be a financial institution, subject to reimbursement plus fee by federal agency
 - Payments not-to-exceed \$2,500 unless authorized at a higher level in accordance with Treasury restrictions
- SF 44, Purchase Order-Invoice-Voucher
 - Multipurpose purchase order form designed primarily for on-the-spot, over-the-counter purchases of supplies and non-personal services while away from purchasing office or at isolated activities

- Supplies or services are immediately available
- Orders not-to-exceed micro-purchase threshold (\$3,500), unless related to disaster or contingency buy, in which case not-to-exceed simplified acquisition threshold (\$150K for non-commercial items, or \$6.5M for commercial items)
- Only one delivery and one payment per order
- No contract clauses or provisions
- FAR Part 6, Competition Requirements, applies
- FAR Part 19, Small Business Programs, applies
- FAR Part 25, Foreign Acquisition, requirements (Buy American Act, Trade Agreements Act, etc.) applies

FAR Part 14, Sealed Bidding

- Prescribes basic requirements of contracting for non-commercial supplies and services (including construction) by sealed bidding
- Competitive procurement process consisting of:
 - Invitations for bids
 - Publicizing invitation for bids
 - Submission of bids
 - Public opening of bids
 - Evaluation of bids without discussions
 - Contract award
- Must have reasonable expectation of receiving more than one sealed bid
- Uniform Contract Format (Sections A through M) required
 - Section A, Solicitation/contract form - includes the following information:
 - Name, address, and location of issuing activity, including room and building where proposals or information must be submitted,
 - Solicitation number
 - Date of issuance
 - Closing date and time
 - Number of pages
 - Requisition or other purchase authority
 - Brief description of item or service
 - Requirement for the offeror to provide its name and complete address, including street, city, county, state, and ZIP code, and electronic address (including facsimile address), if appropriate
 - Offer expiration date
 - Section B, Supplies or services and prices/costs – provides brief description of supplies or services being acquired
 - Section C, Description/specifications/statement of work – provides more detailed description or specifications required in addition to Section B to describe agency needs
 - Section D, Packaging and marking – provides packaging, packing, preservation, and marking requirements, if any

- Section E, Inspection and acceptance – provides description of inspection, acceptance, quality assurance, and reliability requirements
- Section F, Deliveries or performance – specifies requirements for time, place, and method of delivery or performance
- Section G, Contract administration data - describes any required accounting and appropriation data and any required contract administration information or instructions other than those on solicitation form in Section A
- Section H, Special contract requirements – describes any special contract requirements that are not included in Section I, or in other sections of uniform contract format
- Section I, Contract clauses - Identifies clauses required by law, and any additional clauses expected to be included in any resulting contract, if these clauses are not required in any other section of uniform contract format
- Section J, List of attachments – lists title, date, and number of pages for each attached document, exhibit, and other attachment
- Section K, Representations, certifications, and other statements of offerors – identifies solicitation provisions that require representations, certifications, or submission of other information by offerors
- Section L, Instructions, conditions, and notices to offerors or respondents – describes solicitation provisions and other information and instructions not required elsewhere in uniform contract format to guide content and format of proposals or responses to requests for information
- Section M, Evaluation factors for award – identifies all significant factors and any significant subfactors that will be considered in awarding contract and their relative importance
- Must allow reasonable bid preparation time consistent with needs of Government – typically 30 days if synopsis in FEDBIZOPPS (> \$25K)
- Pre-bid meeting may be conducted to clarify solicitation requirements
- Offeror's bid is a binding offer that may only be withdrawn prior to bid closing date and time
- Bid opening is a public event; time and place of opening publicly announced (usually in solicitation or pre-solicitation notice posted on FEDBIZOPPS)
- Bid evaluation includes:
 - Responsive to solicitation
 - Cost and cost related factors
 - Single vs. multiple awards
 - Prompt payment discounts offered
 - Schedule
 - Fair and reasonable price
 - Determination of bidder responsibility
 - Equal low bids resolved by FAR 14.408-6, with preference given to small business
- Grounds for bid rejection include:
 - Does not conform to applicable specifications

- Fails to conform to required delivery schedule or performance period
- Stated exception to specifications that affects price, quality or delivery
- Unreasonable price (significantly higher or lower than Government estimate in total, or for individual line item)
- Bidder not responsible or debarred
- Bid security or bond not provided or improper
- Evidence of collusion among bidders
- Government estimate is opened, read aloud, and recorded as part of bid opening process
- Award made on basis of price and other price-related factors
- Prior to award, bidders may be notified of mistakes and asked to correct through 'verification of bid' process
 - In case of obvious clerical errors, contractor permitted to correct bid
 - Non-responsive bids cannot be cured
 - Correction may be initiated by bidder after opening, subject to significant restrictions, especially if correction would displace lower bidder
- After award, correction of mistakes in bids governed by FAR 33.2 (Disputes and Appeals)
 - Decision regarding correction of alleged mistake documented via Contracting Officer's final decision
 - Work continues without interruption while issue is resolved
- Proof of bid security or bond may be required prior to contract award
- FAR Part 6, Competition Requirements, applies
- FAR Part 19, Small Business Programs, applies
- FAR Part 25, Foreign Acquisition, requirements (Buy American Act, Trade Agreements Act, etc.) applies

FAR Part 15, Contracting by Negotiation

- Prescribes policies and procedures governing negotiated acquisitions of non-commercial items
- Applies to acquisitions with aggregate value > \$150K (\$6.5M for commercial items)
- Uniform Contract Format (Sections A through M) required
 - Section A, Solicitation/contract form - includes the following information:
 - Name, address, and location of issuing activity, including room and building where proposals or information must be submitted,
 - Solicitation number
 - Date of issuance
 - Closing date and time
 - Number of pages
 - Requisition or other purchase authority
 - Brief description of item or service
 - Requirement for the offeror to provide its name and complete address, including street, city, county, state, and ZIP code, and electronic address (including facsimile address), if appropriate

- Offer expiration date
 - Section B, Supplies or services and prices/costs – provides brief description of supplies or services being acquired
 - Section C, Description/specifications/statement of work – provides more detailed description or specifications required in addition to Section B to describe agency needs
 - Section D, Packaging and marking – provides packaging, packing, preservation, and marking requirements, if any
 - Section E, Inspection and acceptance – provides description of inspection, acceptance, quality assurance, and reliability requirements
 - Section F, Deliveries or performance – specifies requirements for time, place, and method of delivery or performance
 - Section G, Contract administration data - describes any required accounting and appropriation data and any required contract administration information or instructions other than those on solicitation form in Section A
 - Section H, Special contract requirements – describes any special contract requirements that are not included in Section I, or in other sections of uniform contract format
 - Section I, Contract clauses - Identifies clauses required by law, and any additional clauses expected to be included in any resulting contract, if these clauses are not required in any other section of uniform contract format
 - Section J, List of attachments – lists title, date, and number of pages for each attached document, exhibit, and other attachment
 - Section K, Representations, certifications, and other statements of offerors – identifies solicitation provisions that require representations, certifications, or submission of other information by offerors
 - Section L, Instructions, conditions, and notices to offerors or respondents – describes solicitation provisions and other information and instructions not required elsewhere in uniform contract format to guide content and format of proposals or responses to requests for information
 - Section M, Evaluation factors for award – identifies all significant factors and any significant subfactors that will be considered in awarding contract and their relative importance
- More complex and extensive contract provisions and clauses required
 - Pre-proposal meeting may be conducted to clarify solicitation requirements
 - Complex evaluation of offers
 - Detailed evaluation factors and subfactors
 - All factors and significant subfactors, and their relative importance required to be stated clearly in solicitation
 - Solicitation must state whether evaluation factors other than cost or price, when combined, are (a) significantly more important than cost or price; (b) approximately equal to cost or price; or (c) significantly less important than cost or price

- Contracting Officer may elect to enter into discussions with offerors regarding noted deficiencies in their proposals and request revised proposals
 - Complex process for conducting discussions (establish competitive range; conduct discussions, request final proposal revisions)
- Certified cost or pricing data may be required for acquisitions > \$650,000
- FAR Part 6, Competition Requirements, applies
- FAR Part 19, Small Business Programs, applies
- FAR Part 25, Foreign Acquisition, requirements (Buy American Act, Trade Agreements Act, etc.) applies

FAR Part 16, Types of Contracts

- Prescribes policies and procedures and provides guidance for selecting a contract type appropriate to circumstances of acquisition
- Describes types of contracts that may be used in Government acquisitions
 - Fixed-Price Contracts
 - Fixed-Price Contracts with Economic Price Adjustment
 - Fixed-Price Incentive Contracts
 - Fixed-Price Contracts with Prospective Price Redetermination
 - Fixed-Ceiling-Price Contracts with Retroactive Price Redetermination
 - Firm-Fixed-Price, Level-of-Effort Term Contracts
 - Cost-Reimbursement Contracts
 - Cost Contracts
 - Cost-Sharing Contracts
 - Cost-Plus-Incentive-Fee Contracts
 - Cost-Plus-Award-Fee Contracts
 - Cost-Plus-Fixed-Fee Contracts
 - Incentive Contracts
 - Predetermined, Formula-Type Incentives
 - Cost Incentives
 - Performance Incentives
 - Delivery Incentives
 - Multiple-Incentives
 - Fixed-Price Incentive Contracts
 - Fixed-Price Incentive (Firm Target) Contracts
 - Fixed-Price Incentive (Successive Targets) Contracts
 - Fixed-Price Contracts with Award Fees
 - Cost-Reimbursement Incentive Contracts
 - Cost-Plus-Incentive-Fee Contracts
 - Cost-Plus-Award-Fee Contracts
 - Indefinite-Delivery Contracts
 - Definite-Quantity Contracts
 - Requirements Contracts
 - Indefinite-Quantity Contracts
 - Time-and-Materials Contracts

- Labor-Hour Contracts
- Letter Contracts
- Agreements
- Selection of contract type intended to:
 - Establish reasonable balance between contractor risk and Government risk
 - Provide contractor with greatest incentive for efficient and economical performance
- Firm-fixed-price contracts best utilize basic profit motive of commercial marketplace and shall be used when risk for contractor can be predicted with a reasonable degree of certainty
 - When reasonable basis for firm pricing does not exist, other contract types should be considered with the intent of tying contractor profit to contractor performance
 - Contracting Officers should avoid protracted use of cost-reimbursement, time-and-materials, or labor-hours contracts after experience provides basis for firmer pricing
- Factors that should be considered in selecting contract type include:
 - Price competition - effective competition normally results in more realistic pricing
 - Cost analysis - essential that uncertainties involved in performance and their possible impact upon costs be identified and evaluated to identify contract type that places reasonable degree of cost responsibility and risk upon contractor
 - Type and complexity of requirement - complex requirements, particularly those unique to Government, usually result in greater risk assumption by Government, at least until such time as risks associated with understanding requirements are better understood
 - Combining contract types - if entire contract cannot be firm-fixed-price, Contracting Officer shall consider whether or not a portion of contract can be established on firm-fixed-price basis
 - Urgency of requirement - if urgency is a primary factor, Government may choose to assume a greater proportion of risk or it may offer incentives promote timely performance
 - Period of performance or length of production run - in times of economic uncertainty, contracts extending over relatively long period may require economic price adjustment or price redetermination clauses
 - Prospective contractors' technical capability and financial responsibility
 - Adequacy of contractor's accounting system – before agreeing on contract type other than firm-fixed-price, Contracting Officer shall ensure that contractor's accounting system will permit timely development of all necessary cost data in form required by proposed contract type; this is particularly important for cost-reimbursement, time-and-materials, or labor-hour contracts

- Concurrent contracts - if performance under proposed contract involves concurrent operations under other contracts, impact of those contracts, including their pricing arrangements, should be considered
- Extent and nature of proposed subcontracting - if contractor proposes extensive subcontracting, a contract type reflecting lower degree of risk for prime contractor should be selected
- Acquisition history - contractor risk usually decreases as requirement is repetitively acquired; product or service descriptions can also be defined more clearly as requirement is repetitively acquired

Part 17, Special Contracting Methods

- Prescribes policies and procedures for the acquisition of supplies and services through special contracting methods, including:
 - Multi-year contracting
 - Options
 - Leader company contracting

Part 18, Emergency Acquisitions

- Identifies acquisition flexibilities that are available for emergency acquisitions

Part 19, Small Business Programs

- Implements the acquisition-related sections of the Small Business Act, applicable sections of the Armed Services Procurement Act, and Executive Order 12138, May 18, 1979.
- Part 19 covers:
 - Criteria for determination that a given business concern is eligible for participation in the programs
 - Respective roles of executive agencies and the Small Business Administration (SBA) in implementing the programs
 - Acquisitions set-asides for exclusive competitive participation by small businesses, including:
 - 8(a) business development participants
 - HUBZone small business concerns
 - Service-disabled veteran-owned small business concerns
 - Economically disadvantaged women-owned small business (EDWOSB) concerns
 - Women-owned small business (WOSB) concerns
 - Sole source awards to:
 - HUBZone small business concerns
 - Service-disabled veteran-owned small business concerns
 - EDWOSB concerns
 - WOSB concerns

Part 20, Reserved

Part 21, Reserved

Part 22, Application of Labor Laws to Government Acquisitions

- Deals with general policies regarding contractor labor relations as they pertain to the acquisition process
- Prescribes contracting policy and procedures for implementing pertinent labor laws
- Prescribes contract clauses with respect to each pertinent labor law

Part 23, Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace

- Prescribes acquisition policies and procedures supporting the Government's program for ensuring a drug-free workplace, for protecting and improving the quality of the environment, and to foster markets for sustainable technologies, materials, products, and services, and encouraging the safe operation of vehicles by:
 - Reducing or preventing pollution
 - Managing efficiently and reducing energy and water use in Government facilities
 - Using renewable energy and renewable energy technologies
 - Acquiring energy-efficient and water-efficient products and services, environmentally preferable (including EPEAT®-registered, and non-toxic and less toxic) products, products containing recovered materials, bio-based products, non-ozone-depleting products, and products and services that minimize or eliminate, when feasible, the use, release, or emission of high global warming potential hydrofluorocarbons, such as by using reclaimed instead of virgin hydrofluorocarbons
 - Requiring contractors to identify hazardous materials
 - Encouraging contractors to adopt and enforce policies that ban text messaging while driving
 - Requiring contractors to comply with agency environmental management systems

Part 24, Protection of Privacy and Freedom of Information

- Prescribes policies and procedures that apply requirements of the Privacy Act of 1974 and OMB Circular No. A-130, December 12, 1985 to Government contracts and cites the Freedom of Information Act

Part 25, Foreign Acquisition

- Provides policies and procedures for:

- Acquisition of foreign supplies, services, and construction materials
- Contracts performed outside the United States.
- Implements 41 U.S.C. chapter 83, Buy American; trade agreements; and other laws and regulations

Part 26, Other Socioeconomic Programs

- Facilitates promulgation of additional FAR and agency level socioeconomic coverage

Part 27, Patents, Data, and Copyright

- Prescribes the policies, procedures, solicitation provisions, and contract clauses pertaining to patents, data, and copyrights

Part 28, Bonds and Insurance

- Prescribes requirements for obtaining financial protection against losses under contracts that result from the use of the sealed bid or negotiated methods
 - Covers bid guarantees, bonds, alternative payment protections, security for bonds, and insurance

Part 29, Taxes

- Prescribes policies and procedures for (a) using tax clauses in contracts (including foreign contracts), (b) asserting immunity or exemption from taxes, and (c) obtaining tax refunds
- Explains federal, state, and local taxes on certain supplies and services acquired by executive agencies and the applicability of such taxes to the Federal Government

Part 30, Cost Accounting Standards Administration

- Describes policies and procedures for applying the Cost Accounting Standards Board (CASB) rules and regulations (48 CFR Chapter 99) to negotiated contracts and subcontracts
 - Does not apply to sealed bid contracts or to any contract with a small business concern

Part 31, Contract Cost Principles and Procedures

- Contains cost principles and procedures for:
 - Pricing of contracts, subcontracts, and modifications to contracts and subcontracts whenever cost analysis is performed
 - Determination, negotiation, or allowance of costs when required by a contract clause

Part 32, Contract Financing

- Prescribes policies and procedures for contract financing and other payment matters, including:
 - Payment methods, including partial payments and progress payments based on percentage or stage of completion
 - Loan guarantees, advance payments, and progress payments based on costs
 - Administration of debts to the Government arising out of contract
 - Contract funding, including the use of contract clauses limiting costs or funds
 - Assignment of claims to aid in private financing
 - Selected payment clauses
 - Financing of purchases of commercial items
 - Performance-based payments
 - Electronic funds transfer payments

Part 33, Protests, Disputes, and Appeals

- Prescribes policies and procedures for filing protests and processing contract disputes and appeals
- Interested party can file written protest regarding contract award with:
 - Agency awarding contract
 - U.S. Government Accountability Office (GAO)
 - U.S. Court of Federal Claims
- “Interested party” refers to actual or prospective offeror, or other party with direct economic interest in contract award
- Commonly cited grounds for protests include:
 - Alleged improper acceptance or rejection of bid or proposal
 - Alleged solicitation defect
 - Alleged improprieties in Government evaluation of bid or proposal
- Filing protest results in statutory stay of contract award or contract performance pending resolution of protest
 - For protest filed with agency, Contracting Officer may authorize award or proceeding with performance based upon written determination that such action is justified for urgent and compelling reasons, or in best interest of Government
 - Agencies are expected to make best efforts to resolve agency protests within 35 days of receipt of protest
 - For protests filed with GAO, Head of Contracting Activity, on a non-delegable basis, may authorize award or proceeding with performance based upon written determination that such action is justified for urgent and compelling reasons, or in best interest of Government
 - GAO expected to make decision within 100 days of receipt of protest

- In event protest is upheld by GAO, contract award may be overturned or performance may be terminated
- For protests filed with U.S. Court of Federal Claims, Head of Contracting Activity, on a non-delegable basis, may authorize award or proceeding with performance based upon written determination that such action is justified for urgent and compelling reasons, or in best interest of Government
 - Timeliness of Court decision dictated by procedures set forth in rules of U.S. Court of Federal Claims
 - In event protest is upheld by Court, contract award may be overturned or performance may be terminated

Part 34, Major System Acquisitions

- Describes acquisition policies and procedures for use in acquiring major systems (e.g., ship acquisition)
- Agencies responsible for major system acquisitions shall:
 - Acquire major systems in most effective, economical, and timely manner
 - Promote innovation and full and open competition
 - Express agency needs and major system acquisition program objectives in terms of agency's mission needs and not in terms of specified systems to satisfy needs
 - Focus agency resources and special management attention on activities conducted in initial stages of major programs
 - Sustain effective competition between alternative system concepts and sources for as long as it is beneficial

Part 35, Research and Development Contracting

- Prescribes policies and procedures of special application to research and development (R&D) contracting
 - R&D integral to acquisition of major systems is covered in Part 34
 - Independent research and development (IR&D) is covered in Part 31

Part 36, Construction and Architect-Engineer Contracts

- Prescribes policies and procedures peculiar to contracting for construction and architect-engineer services

Part 37, Service Contracting

- Prescribes policy and procedures that are specific to the acquisition and management of services by contract
 - Applies to all contracts and orders for services regardless of the contract type or kind of service being acquired

- Requires the use of performance-based acquisitions for services to the maximum extent practicable and prescribes policies and procedures for use of performance-based acquisition methods
- Includes, but is not limited to, contracts for services to which 41 U.S.C. chapter 67, Service Contract Labor Standards, applies
- Areas in which service contracts are found include the following:
 - Maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment.
 - Advisory and assistance services
 - Operation of Government-owned equipment and systems
 - Transportation and related services (see Part 47).
- Performance-based acquisition is the preferred method for acquiring services to the maximum extent practicable
 - Performance-based contracts for services shall include—
 - Performance work statement (PWS)
 - Agencies shall, to the maximum extent practicable, describe the work in terms of the required results rather than either “how” the work is to be accomplished or the number of hours to be provided
 - Intent is to encourage competitors to develop and institute innovative and cost-effective methods of performing the work in a competitive environment
 - Measurable performance standards (i.e., in terms of quality, timeliness, quantity, etc.) and the method of assessing contractor performance against performance standards
 - Performance incentives where appropriate
 - When used, the performance incentives shall correspond to the performance standards set forth in the contract
- Agencies shall generally rely on the private sector for commercial services
- Agencies shall not award a contract for the performance of an inherently Governmental function
- Non-personal service contracts are proper under general contracting authority
- Agencies shall establish effective management practices to prevent fraud, waste, and abuse in service contracting
- Services are to be obtained in the most cost-effective manner, without barriers to full and open competition, and free of any potential conflicts of interest
- Agencies shall not award personal services contracts unless specifically authorized by statute

- 41 U.S.C. chapter 65, Service Contract Labor Standards, provides for minimum wages and fringe benefits as well as other conditions of work under certain types of service contracts
- Government may enter into contracts with temporary help service firms for the brief or intermittent use of the skills of private sector temporaries
- Contracts for services which require the contractor to provide advice, opinions, recommendations, ideas, reports, analyses, or other work products have the potential for influencing the authority, accountability, and responsibilities of Government officials
 - Require special management attention to ensure that they do not result in performance of inherently Governmental functions by the contractor and that Government officials properly exercise their authority
- Advisory and assistance services are a legitimate way to improve Government services and operations and help managers achieve maximum effectiveness or economy in their operations
 - Agencies may contract for advisory and assistance services, when essential to the agency's mission, to:
 - Obtain outside points of view to avoid too limited judgment on critical issues
 - Obtain advice regarding developments in industry, university, or foundation research
 - Obtain the opinions, special knowledge, or skills of noted experts
 - Enhance the understanding of, and develop alternative solutions to, complex issues
 - Support and improve the operation of organizations
 - Ensure the more efficient or effective operation of managerial or hardware systems
 - Advisory and assistance services shall not be:
 - Used in performing work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials
 - Used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures
 - Contracted for on a preferential basis to former Government employees
 - Used under any circumstances specifically to aid in influencing or enacting legislation
 - Used to obtain professional or technical advice which is readily available within the agency or another Federal agency

Part 38, Federal Supply Schedule Contracting

- Prescribes policies and procedures for contracting for supplies and services under the Federal Supply Schedule program, which is directed and managed by the General Services Administration
 - GSA may delegate certain responsibilities to other agencies (e.g., GSA has delegated authority to the Department of Veterans Affairs (VA) to procure medical supplies under the VA Federal Supply Schedules Program)
 - Department of Defense manages a similar system of schedule contracting for military items; however, the Department of Defense systems are not a part of the Federal Supply Schedule program

Part 39, Acquisition of Information Technology

- Prescribes acquisition policies and procedures for use in acquiring:
 - Information technology, including financial management systems, consistent with other parts of this regulation, OMB Circular No. A-127, Financial Management Systems and OMB Circular No. A-130, Management of Federal Information Resources
 - Information and information technology

Part 40, Reserved

Part 41, Acquisition of Utility Services

- Prescribes policies, procedures, and contract format for the acquisition of utility services

Part 42, Contract Administration and Audit Services

- Prescribes policies and procedures for assigning and performing contract administration and contract audit services

Part 43, Contract Modifications

- Prescribes policies and procedures for preparing and processing contract modifications
- Only Contracting Officers acting within scope of their authority are empowered to execute contract modifications on behalf of Government
- Other Government personnel shall not:
 - Execute contract modifications
 - Act in such a manner as to cause contractor to believe they have authority to bind Government

- Direct or encourage contractor to perform work that should be subject of a contract modification
- Contract modifications, including changes that could be issued unilaterally, shall be priced before their execution if this can be done without adversely affecting Government interests
 - If a significant cost increase could result from a contract modification and time does not permit negotiation of a price, at least a ceiling price shall be negotiated unless impractical
- Contract modifications can be:
 - *Bilateral* - signed by contractor and Contracting Officer
 - *Unilateral* - signed only by Contracting Officer
- When contractor considers that Government has affected or may affect a change in contract that has not been identified as such in writing and signed by Contracting Officer, contractor shall notify Government in writing as soon as possible
- Contracting Officer shall not execute a contract modification that causes or will cause an increase in funds without having first obtained a certification of fund availability, except for modifications to contracts that:
 - Are conditioned on availability of funds
 - Contain a limitation of cost or funds clause
- Government contracts contain a changes clause that permits Contracting Officer to make unilateral changes, in designated areas, within general scope of contract
 - Contractor obligated to continue performance of contract as changed

Part 44, Subcontracting Policies and Procedures

- Prescribes policies and procedures for consent to subcontracts or advance notification of subcontracts, and for review, evaluation, and approval of contractors' purchasing systems

Part 45, Government Property

- Prescribes policies and procedures for providing Government property to contractors; contractors' management and use of Government property; and reporting, redistributing, and disposing of contractor inventory
 - Does not apply to:
 - Government property provided under any statutory leasing authority, except as to non-Government use of property
 - Property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance based payments
 - Disposal of real property
 - Software and intellectual property
 - Government property that is incidental to the place of performance, when the contract requires contractor personnel to be located on a Government site or installation, and when the property used by the

contractor within the location remains accountable to the Government. Items considered to be incidental to the place of performance include, for example, office space, desks, chairs, telephones, computers, and fax machines

Part 46, Quality Assurance

- Prescribes policies and procedures to ensure that supplies and services acquired under a Government contract conform to contract's quality and quantity requirements
 - Includes inspection, acceptance, warranty, and other measures associated with quality requirements
- Agencies shall ensure that:
 - Contracts include inspection, acceptance, warranty, and other quality measures, when appropriate, that are determined necessary to protect Government's interests
 - Supplies or services tendered by contractors meet contract requirements
 - Government contract quality assurance is conducted before acceptance by or under direction of Government personnel
 - No contract precludes Government from performing inspection, acceptance, warranty, and other measures associated with quality requirements
 - Non-conforming supplies or services are rejected, except as otherwise provided in FAR Part 46
 - Contracts for commercial items shall rely upon contractor's existing quality assurance system as substitute for compliance with Government inspection and testing before tender for acceptance unless customary market practices for commercial item being acquired permit in-process customer inspection; any in-process inspection by Government shall be conducted in a manner consistent with commercial practice
 - Quality assurance and acceptance services of other agencies are used when this will be effective, economical, or otherwise in Government's interest
- Contractor is responsible for carrying out its obligations under contract by:
 - Controlling quality of supplies or services
 - Tendering to Government for acceptance only those supplies or services that conform to contract requirements
 - Ensuring that vendors or suppliers of raw materials, parts, components, subassemblies, etc., have an acceptable quality control system
 - Maintaining substantiating evidence, when required by contract, that supplies or services conform to contract quality requirements, and furnishing such information to Government as required
- Contractor may be required to provide and maintain an inspection system or program for control of quality that is acceptable to Government
- Control of quality by contractor may relate to, but is not limited to:

- Manufacturing processes, to ensure that product is produced to, and meets, contract's technical requirements
- Drawings, specifications, and engineering changes, to ensure that manufacturing methods and operations meet contract's technical requirements
- Testing and examination, to ensure that practices and equipment provide means for optimum evaluation of characteristics subject to inspection
- Reliability and maintainability assessment (life, endurance, and continued readiness)
- Fabrication and delivery of products, to ensure that only conforming products are tendered to Government
- Technical documentation, including drawings, specifications, handbooks, manuals, and other technical documentation
- Preservation, packaging, packing, and marking
- Procedures and processes to ensure that services meet contract performance requirements.
- Contractor is responsible for performing all inspections and tests required by contract, except those specifically reserved for performance by Government
- Government contract quality assurance shall be performed at such times (including any stage of manufacture or performance of services) and places (including subcontractors' plants) as may be necessary to determine that supplies or services conform to contract requirements
 - Quality assurance surveillance plans should be prepared in conjunction with preparation of statement of work and should specify all work requiring surveillance, and method of surveillance
 - Each contract shall designate place or places where Government reserves right to perform quality assurance
 - If contract provides for performance of Government quality assurance at source, place or places of performance may not be changed without authorization of Contracting Officer
 - If contract provides for delivery and acceptance at destination and Government inspects supplies at a place other than destination, supplies shall not ordinarily be re-inspected at destination, but should be examined for quantity, damage in transit, and possible substitution or fraud
 - Government inspection shall be performed by or under direction or supervision of Government personnel
 - Government inspection shall be documented on an inspection or receiving report form, or commercial shipping document/packing list, under agency procedures
 - Government contract quality assurance on subcontracted supplies or services shall be performed only when required in Government's interest
 - Primary purpose is to assist cognizant contract administration office for prime contractor's plant in determining conformance of subcontracted supplies or services with contract requirements
 - Government quality assurance does not relieve prime contractor of any responsibilities under contract

- When appropriate, prime contractor shall be requested to arrange for timely Government access to subcontractor facility
- Contracting Officer should reject supplies or services not conforming in all respects to contract requirements
 - In those instances, where deviation from this policy is found to be in Government's interest, such supplies or services may be accepted by Contracting Officer under certain conditions prescribed in FAR Part 46
- Warranties
 - Principal purposes of a warranty in a Government contract are to:
 - Delineate rights and obligations of contractor and Government for defective items and services; and
 - Foster quality performance
 - Generally, a warranty should provide:
 - Contractual right for correction of defects notwithstanding any other requirement of contract pertaining to acceptance of supplies or services by Government; and
 - Stated period of time or use, or occurrence of a specified event, after acceptance by Government to assert a contractual right for correction of defects.
 - Benefits to be derived from warranty must be commensurate with cost of warranty to Government
- Government will generally act as a self-insurer by relieving contractors of liability for loss of or damage to property of Government that:
 - Occurs after acceptance of supplies delivered or services performed under a contract
 - Consequences resulting from defects or deficiencies in supplies or services; however, Government will not relieve contractor of liability for loss of or damage to contract end item itself, except for high-value items

Part 47, Transportation

- Prescribes policies and procedures for:
 - Applying transportation and traffic management considerations in the acquisition of supplies
 - Acquiring transportation or transportation-related services by contract methods other than bills of lading, transportation requests, transportation warrants, and similar transportation forms

Part 48, Value Engineering

- Prescribes policies and procedures for using and administering value engineering techniques in contracts

Part 49, Termination of Contracts

- Establishes policies and procedures relating to the complete or partial termination of contracts for the convenience of the Government or for default

Part 50, Extraordinary Contractual Actions and the Safety Act

- Prescribes policies and procedures for entering into, amending, or modifying contracts in order to facilitate the national defense under the extraordinary emergency authority granted by Public Law 85-804 and Executive Order 10789, dated November 14, 1958
 - Implements indemnification authority granted by Pub. L. 85-804 and paragraph 1A of E.O. 10789 with respect to any matter that has been, or could be, designated by the Secretary of Homeland Security as a qualified anti-terrorism technology as defined in the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (SAFETY Act)
 - Implements SAFETY Act liability protections to promote development and use of anti-terrorism technologies

Part 51, Use of Government Sources by Contractors

- Prescribes policies and procedures for the use by contractors of Government supply sources and interagency fleet management system (IFMS) vehicles and related services

Part 52, Solicitation Provisions and Contract Clauses

- Gives instructions for using provisions and clauses in solicitations and/or contracts
- Sets forth the solicitation provisions and contract clauses prescribed by this regulation
- Provides a matrix listing the FAR provisions and clauses applicable to each principal contract type and/or purpose

Part 53, Forms

- Prescribes standard forms (SFs) and references optional forms (OFs) and agency-prescribed forms for use in acquisition
 - Contains requirements and information generally applicable to the forms
 - Illustrates the forms