

Doing Business with the Navy (Advanced Topics) February 16, 2017



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Ready. Resourceful. Responsive!

Nonmanufacturer Rule

(FAR 19.502-2(c))

Small Business Set-Asides – the offeror needs to be SB AND the manufacturer needs to be a US SB.

The Nonmanufacturer Rule is the exception to SB set-aside requirement and applies when...

- 1. Small Business Administration (SBA) has issued a Class or Individual Waiver**
- 2. The value of the procurement is under \$25K**



Contract Types

FAR Part 16 (hand-out)

	Cost Reimbursement	Fixed-Price
Contractor must	Perform best effort	Deliver
Risk to Contractors	Low	High
Risk to Government	High	Low
Payments	As incurred	On delivery
Administration	Lots of Government effort	Minimum Government effort
Fee or Profit	Fee	Profit
When to use	Complex, uncertainty, R&D	Non-complex, Commercial

Most used Fixed Price – Lowest Price/Technically Acceptable (LPTA)

Most used Cost Reimbursement – Cost Plus Fixed Fee (CPFF)

Source Selection Processes

FAR Part 15

Source Selection is a process that deals with the selection of a contractor through a Competitive Negotiation. The process begins with establishing evaluation factors. Best Value or Tradeoff procedures are appropriate when considering award based on other than price.

What is considered: Complexity, Clearly Defined Scope, Navy wants different options and approaches, the risk of unsuccessful performance.

Types of Tradeoff: Lowest Price/Technically Acceptable (LPTA), Tradeoffs between non-cost factors and cost/price.

Navy establishes “Source Selection Teams” with individuals that have specific roles and responsibilities – it is never a one person analysis and the Team always includes a Small Business Specialist.

Source Selection Processes Cont...

FAR Part 15

Tradeoff Factors may include:

Factor: Technical

Subfactor: Management

Factor: Past Performance

Subfactor: Past Small Business Utilization

Factor: Cost/Price

Factor: Small Business Subcontracting Plan

Rating Levels:

Pass/Fail

Unacceptable, Marginal, Acceptable, Good, Outstanding

Numerical – example 10 is excellent, 1 is unacceptable

Or a combination of any of these

Factors are weighted...





Source Selection Processes Cont...

Sample

	Weight	Company A		Company B		Company C	
		Score	Extension	Score	Extension	Score	Extension
Technical	35	10	350	8	280	9	315
Management	20	8	160	8	160	10	200
SB Utilization	10	10	100	10	100	8	80
Past Performance	10	6	60	8	80	9	90
Cost/Price	25	7	175	10	250	8	200
Total			845		870		885



Score - 10 being the highest and 1 being the lowest

Contract Costs (FAR Parts 15 and 31)

Price: all costs and profit (competitive, fixed price, low dollar)

Cost: all direct and indirect costs (sole source, reimbursable, high dollar)

Costs must be "reasonable" and "allowable." The rules controlling both concepts appear in FAR Part 31.

Direct Costs	Indirect Costs	Other (direct or indirect)	Non Allowable
Labor	Depreciation	Employee morale	Bad debts
Materials	Corporate hdq salaries	Share holder meetings	Contributions
travel	Office supplies	Patent costs	Entertainment
Bonding	Janitor	Recruitment costs	Fines
Subcontracts	Food for office cat	Relocation costs	Lobbying
Equipment rental		Employee training	"Some" taxes



Buy American Act The Buy American Act (BAA) FAR Part 25, DFAR Part 225

BAA restricts the purchase of supplies that are not **domestic end-products. The restrictions to the Buy American Act are not applicable when subject to certain Federal Trade Agreements, based on dollar thresholds (more later on Trade Agreements)**

BAA applies to all supply contracts that exceed the micro purchase threshold and are for use in the US, these include small business set-aside contracts also. It also applies to service contracts with supplies valued over the micro purchase threshold.

Definition of **Domestic End-Product**

FAR - 2 part test:

1. **Manufactured in the US and/or**
2. **Cost of US components must exceed 50% of the cost of all components (this requirement is waived for COTS items)**

Exceptions to the Buy American Act

1. **Public Interest - the agency has an agreement with a foreign government with a blanket exception to the BAA**
2. **Non-availability – not mined, produced or manufactured in the US (see FAR Part 25.104 for a list of items)**
3. **Unreasonable cost – when determined the cost of a domestic product is unreasonable (50% rule...DFAR 252.5)**
4. **Resale – for commissary resale**
5. **Information Technology that is a commercial item**

So when can you accept an offer from a business offering a product from a foreign country?

Qualifying Country (DFAR 225)

“**Qualifying country**” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchase supplies produced in the other country...

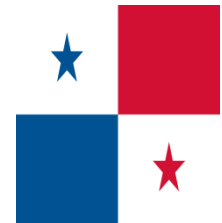
(Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland)

	Abc Inc.	Bob Inc.	HHC LLC
Country of Origin	USA	Canada	Mexico
Wooden pallets	\$80,000	\$75,000	\$83,000

Trade Agreements

Designated
 Countries

Trade Agreement	Supply Contract (equal to or exceeding)	Service Contract (equal to or exceeding)	Construction Contract (equal to or exceeding)
WTO GPA	\$191,000	\$191,000	\$7,358,000
FTAs			
Australia FTA	77,533	77,533	7,358,000
Bahrain FTA	191,000	191,000	10,079,365
CAFTA-DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	77,533	77,533	7,358,000
Chile FTA	77,533	77,533	7,358,000
Colombia FTA	77,533	77,533	7,358,000
Korea FTA	100,000	100,000	7,358,000
Morocco FTA	191,000	191,000	7,358,000
NAFTA			
—Canada	25,000	77,533	10,079,365
—Mexico	77,533	77,533	10,079,365
Oman FTA	191,000	191,000	10,079,365
Panama	191,000	191,000	7,358,000
Peru FTA	191,000	191,000	7,358,000
Singapore FTA	77,533	77,533	7,358,000
Israeli Trade Act	50,000	—	





Trade Agreements (FAR 25 and DFAR 225)

TAA waives the Buy American Act for products from countries that have signed an international trade agreement with the US.

The value of the purchase determines the applicability of a Federal Trade Agreement PLUS, is the item on the “eligible products” list in DFAR (roughly 60 items).

TAA DOES NOT APPLY TO SMALL BUSINESS SET-ASIDES

	Abc Inc. (LB)	Bob Inc. (SB)	HHC LLC (WOSB)
MFG in ...	USA	Costa Rica	Mexico
Compressors	\$220,000	\$199,000	\$194,000



Who:

- **Small Business Specialists**
- **End-Users**
- **Military Officers**
- **SB Representatives**
- **Buyers/Contract Specialists**

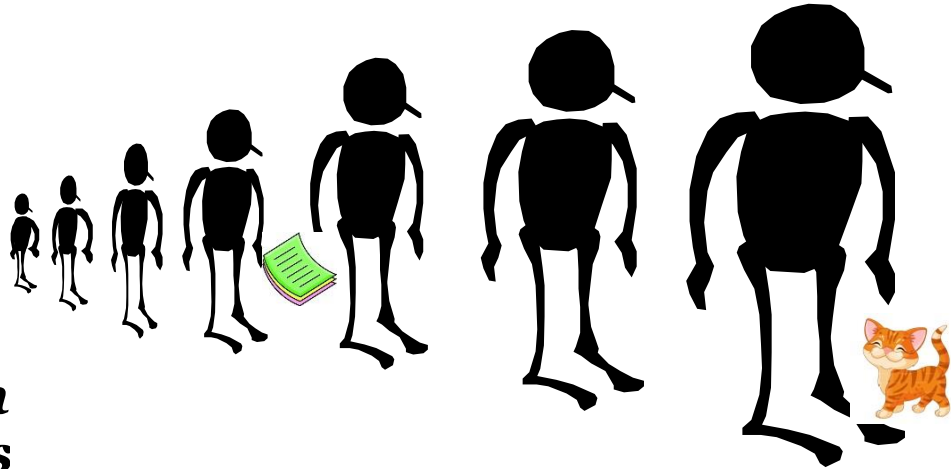
What:

- **Business Card**
- **Line Card/Capability Statement**
- **E-mail or Mail**
- **Web Page**



Where:

- *SB Outreaches*
- *SB Conferences*
- *Industry Conferen*
- *Prime Contractors*
- *Subcategory Organizations (non-profits)*
- *Procurement Technical Assistance Centers (PTAC)*
- *Small Business Administration (SBA)*



When:

- ***WHEN YOU ARE PREPARED!***

QUESTIONS??

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