

Handout F: Think Simplified (Not FAR Part 15)¹

*If You Use FAR Part 15-Like Terminology and Procedures for Schedule Procurements, Courts and GAO May Hold You to Those Part 15 Standards!*²

FAR Part 15 does not govern orders placed against the GSA Schedules. But where an agency issues a Schedule order using Part 15-like terminology and procedures, the GAO and the courts may look to FAR Part 15 to assess the propriety of the agency action in the event of a protest against the order.

For Schedule orders/BPAs, agencies *need not*:³

- comply with *anything* in FAR [Part 15](#)⁴
- conduct a formal “negotiated procurement”
- issue a “solicitation” for thirty days (or any other pre-determined time)⁵
- conduct a formal evaluation
- undertake a cost/price realism analysis
- seek contractors outside the Schedules program
- synopsise the requirement on FedBizOpps⁶
- conduct a price evaluation on quoted Schedule rates (e.g., hourly rates)
- conduct “discussions”
- prepare extensive documentation
- conduct a formal debriefing⁷
- determine the “competitive range”

The cost of proposal preparation is a major consideration in the Schedule contractor’s decision to quote. With the fully-loaded (ceiling) hourly rates GSA has negotiated, the contractor has assumed only the “normal” bid and proposal costs expected for a fully-streamlined procedure. Asking for more in task order/BPA quotes risks a “no quote” from a Schedule contractor unable to recover those costs. Examples of quote obstacles to be removed include:

- unnecessarily short proposal response times
- unduly burdensome proposal instructions (oral and written)
- excessive number of evaluation factors/subfactors
- acronym filled statements of work only the incumbent can understand
- asking for *cost proposals*, cost and pricing data, or anything requiring an audit
- using FAR [15.3](#) concepts and procedures

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² [CourtSmart Digital Sys., Inc. B-292995.2, B-292955.3, Feb. 13, 2004](#); [ACS Government Solutions Group, Inc., B-282098.2, B-282098.3, June 2, 1999](#).

³ [Ellsworth Associates, Inc. v United States, 45 Fed. Cl. 388 \(1999\)](#); [Computer Products, Inc., B-284702, May 24, 2000](#); [Intelligent Decisions, Inc., B-274626.2, December 23, 1996](#); [ViON Corporation, B-283804.2, January 24, 2000](#).

⁴ Reference [FAR 8.404\(a\)](#)

⁵ DoD activities may determine a need to leave the RFQ open for 30 days. See DFARS [215.371-2](#)

⁶ Except for Recovery Act (containing both pre and post award requirements) [FAR 8.404(g)] and Limited Source Justifications requiring post award notices [[FAR 8.405-6\(a\)\(2\)](#)]

⁷ See <http://interact.gsa.gov/blog/brief-explanation-vs-debriefing>

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NOT using FAR [15.3](#) concepts and procedures has the following implications for your task order selection process:

1. There is no requirement to set a “competitive range” using all the published evaluation factors. This means that you can save yourself and the Schedule contractor considerable time and money by phasing your procurement in a manner that uses the least costly factors to initially down-select the quoters. For example, after providing your RFQ, you could initially down-select based upon a 10 minute telephonic presentation of an “overall concept.” Then, in a subsequent phase, you could obtain more detailed information such as a price quote (or, in a BPA, simply an offered discount below the *GSA Advantage!*® price for all orders) or technical description for those contractors remaining.
2. Since a competitive range is not established, there is no need to be overly focused on the nature of exchanges with the offerors. Ordinarily, in a [FAR 15.3](#) procurement, the Contracting Officer draws a distinction between “communications” and “discussions.” There need be no such caution on a Schedule order. You can engage in detailed exchanges about any aspect of a quote at any time. Naturally, you should make every effort to treat each quoter equitably. You must not be biased, arbitrary, or capricious and your decisions must be adequately (but not overly) documented. Protests are possible, but the risks are lower if you streamline the procurement as much as possible. But the biggest risk is that the Schedule contractor will simply refuse to quote if you are perceived as undermining the integrity of the procurement process.
3. There is no requirement to capture “The relative strengths, deficiencies, significant weaknesses, and risks supporting proposal evaluation...” as required in FAR 15.305. This means your evaluation system can be very streamlined. For example, you can use any evaluation system you wish such as pluses and minuses or simply narrative statements as long as you fully justify your ultimate tradeoff selection.
4. You are not bound by the rules in [FAR 15.3](#) for evaluating past performance, such as the requirement to provide a neutral rating to a quote without any past performance. Further, if you choose not to use past performance as an evaluation factor, there is no requirement to document the file with your rationale. Remember, all GSA Schedule Contractors have already been evaluated for past performance as a condition of being awarded a GSA Schedule contract. Indeed there may be no need for past performance as an evaluation factor when evaluation criteria such as Technical, Experience and Price will suffice. This is especially true for orders against multiple award BPAs wherein the BPA holders have already been evaluated for past performance *twice* (once at the Schedule level and once at the BPA level). Eliminating the need to wait on receipt of past performance surveys/questionnaires can save a lot of time for both the contractor and the ordering activity Contracting Officer.
5. There is no requirement to follow the FAR [15.305](#) requirement to “evaluate competitive proposals and then assess their relative qualities.” In other words, your evaluation system can immediately compare (and remember, we don’t say “compete” because the CICA requirements have already been met) one quote to another in order to determine the rank ordering for selection. There is no need to first consume time rating each quote independently against the evaluation factors before making a comparison. This significantly speeds the evaluation process. Of course, you must evaluate the way you said you would in your task order/BPA RFQ and ensure equal treatment of all quotes.