

Contracting with the American Embassy of Tashkent



Size of Government Contracting

- Government contracting is big business.
- The entire Federal Government spends nearly \$600 billion on contracts and simplified acquisitions every year, of which about \$7.7 billion comes from the State Department and about \$5 million comes from Tashkent.

U.S. Government Contracting Authority

- The Federal Government gets its ability to act from the powers given to it by the people of the United States through the [Constitution](#). The Constitution gives the Government specific [enumerated powers](#) in [Article 1](#) Section 8. While the power to purchase is not explicit in the enumerated powers, it is understood to be implied as part of the specific powers granted.
- The U.S. Congress passes legislation that defines the process and additional legislation that provides the funds. The executive branch, through all of the various agencies, then enter into the contracts and expend the funds to achieve their congressionally-defined mission. When disputes arise, contractors can appeal to U.S. courts.
- We are here representing one of these agencies: the U.S. Department of State.

Contracting Goals

- Purchasing necessary products and services to support U.S. Government programs in the U.S. and around the world while adhering to and accomplishing the goals established by the U.S. Congress.
- These goals can be simplified into the following: **efficiency, fairness, and promotion of socioeconomic programs.**

Fairness

- The Government may not simply select its favorite company every time it needs supplies or services. **Procurements must be competed.**
- We must follow acquisition rules that contain procedures that favor fairness and competition rather than simple efficiency.

Efficiency

- On the other hand, to require full and open competition for a \$100 purchase would be fair but not very efficient.
- Therefore, the acquisition rules contain procedures that **allow us to make purchases without obtaining competition** if the price is reasonable.

Socioeconomic Programs

- The U.S. Congress has **mandated programs to assist certain types of businesses.**
- The Government's long-standing policy is to encourage participation by U.S. small, small disadvantaged, HUBZone (Historically underutilized business zone), veteran-owned, service-disabled veteran-owned, and women-owned small business concerns in Federal acquisition.

Definitions

- **Contract** - A legal instrument providing for the purchase, lease or barter of property or services for the direct benefit of the Federal Government.
- **Contracting Officer** - An official authorized to enter into or administer procurement contracts and make related determinations and findings.
- **Contractor** – A supplier, vendor, or manufacturer having a contract (commitment) to provide specific supplies or services to the Government.

Awarding Contracts

- Not just any Federal employee may award a contract or simplified acquisition. **Only a Contracting Officer** appointed by the Procurement Executive may do so.
- Awards are based upon strict regulations that consider the congressional goals of **efficiency, fairness, and promotion of socioeconomic programs.**

Contract Regulations

- No contract may be entered into unless the Government meets all applicable requirements of law, executive orders, and regulations.
- The Federal Acquisition Regulation, Code of Federal Regulations, Title 48, Chapter I, (48 CFR Ch. 1) is the primary regulation for use by all Federal agencies when they acquire supplies and services with appropriated funds. The FAR provides uniformity in the Federal acquisition process and its concise language, format, and numbering system make it relatively easy to use and understand as a reference work.

Contract Regulations

- The FAR can be obtained electronically on the Internet (<http://www.statebuy.state.gov>) by clicking on the appropriate link to connect directly with the FAR on-line.
- Most Federal agencies have acquisition regulations that implement and supplement the FAR. The Department of State Acquisition Regulation (DOSAR) is Chapter 6 of Title 48 of the Code of Federal Regulations.

Contract Regulations

- Government Contracting Officers must include in contracts and purchase orders many clauses from the Federal Acquisition Regulation (FAR) that deal with the performance of the contract.
- It is not generally permissible to issue a one-page contract such as you might see in private industry.

Difference between Government Acquisition and Private Acquisition

- The law requires that Government contracts be **in writing**.
- When the **Federal Government** buys things, it **writes the contract**.
- The USG Contracting Officers **cannot sign commercial contracts, agreements, or any other terms and conditions that are contrary to Federal law or policy**.

Protecting the Integrity of the Acquisition Process

- Basically, the FAR requires that offers submitted by companies competing for Government procurements be **safeguarded** and **not released** inappropriately to unauthorized individuals or firms. The Government's documentation leading to the award of negotiated contracts likewise must be protected from disclosure.

Protecting the Integrity of the Acquisition Process

- The phrase, “integrity of the acquisition process,” means the mutual understanding between industry and the Government that private sector firms shall be invited to compete for the Government’s business on a scrupulously fair basis. We must ensure that all firms have access to the same information on a particular contract so that no firm has an unfair advantage in the process.
- Intentionally writing an unnecessarily **restrictive specification** or Statement of Work that would effectively exclude the products or services of one firm or increase the prospects for award to another firm is also unfair. In addition, it restricts competition and makes it more likely that the Government will ultimately pay a higher price.

Overseas Procurement

How the Embassy does contracting in Tashkent

- All Federal agencies, including US Embassy Tashkent, must comply with the **Federal Acquisition Regulation (FAR)**.
- Embassy's Contracting Officer is responsible for managing the procurement process and signing all contracts, purchase orders, etc.

Guiding Principles

The Federal Acquisition System is designed to:

- Satisfy the customer in terms of cost, quality, and timeliness of what we acquire by maximizing the use of commercial products and services; using contractors with a successful performance record; and promoting competition.
- Minimize administrative costs.
- Conduct business with integrity, fairness, and openness.
- Fulfill public policy objectives.

Simplified Acquisition Milestones

The following basic steps occur in a **simplified acquisition** (buys of \$150,000 or less, or \$6.5 million or less for commercial items):

- Contracting office solicits quotations (3 or more if over \$3,000).
- Evaluation of quotations.
- Issuance of purchase order.
- Delivery of supplies/services.
- Inspection, acceptance, and payment.
- Closeout.

Competition for Simplified Acquisitions

If the acquisition is...	Then...
\$3,000 or under	FAR 13.202(a)(2) - Micro-purchases may be awarded without soliciting competitive quotations if the price is considered reasonable.
Construction over \$2,000	Written solicitation and offers are required.
Over \$3,000 - \$30,000	FAR 13.106-1(c) – solicit quotations orally to the maximum extent practicable. Solicitation of at least three sources is competition to the maximum extent practicable.
Over \$15,000 and less than \$25,000	FAR 5.101(a)(2) –Display an unclassified notice in a public place or by any appropriate electronic means for at least 10 days.
Over \$25,000 - \$150,000 (\$6.5 million for commercial items)	FAR 13.106-1 – local advertising/public posting for at least 15 days (see FAR 5.203). Oral quotations may not be practical for actions over \$30,000.00. Solicitation of at least three sources is competition to the maximum extent practicable.
Over \$203,000 and World Trade Organizations Government Procurement Agreement (WTO GPA) applies – exemptions can be found in FAR 25.401	FAR 5.203(h) and 12.603(c)(3)(ii) – posting in FedBizOpps for commercial item requirements – minimum posting of 40 days.

Contract Milestones

The following steps occur when a **contract** is needed:

- Publicize the upcoming contract.
- Issue solicitation.
- Receive proposals.
- Technical evaluation of the proposals.
- Award contract based on initial proposals, or
- Establish competitive range, hold negotiations, receive and evaluate final proposal revisions, and award contract.
- Monitor contractor performance.
- Inspection, acceptance, and payment.
- Contract closeout.

Technical Evaluation Process

Process summary:

- The Technical Evaluation Plan
- Receipt of Proposals
- CO Briefs the Technical Evaluation Panel
- TEP Evaluates the Proposals
- TEP Provides Evaluation Report to CO
- Contract Award OR Negotiations/Final Proposal Revisions Request
- TEP Evaluates Final Proposal Revisions
- Contract Award based on **Lowest Priced Technically Acceptable** proposal

Contracting Officer's Representative

A member of the requiring office may be appointed as **Contracting Officer's Representative (COR)** to:

- Help monitor contract performance.
- Correspond directly with the contractor.
- Advise and assist the Contracting Officer in administering the business aspects of the contract by reviewing invoices, reports and deliverables.
- Coordinate post decisions relating to the contract.
- Use good judgment, skill and reasonable care in the exercise of your authority.
- Protect privileged and sensitive procurement information.
- Inspect and accept contract deliverables.

The COR can NOT:

- Modify or alter the contract or any of its terms and conditions.
- Allow contractor performance problems to go undetected and undocumented, or fail to take appropriate corrective action to protect US Government's interest.

Invoice Payment

In accordance with FAR Part 32 – Contract Financing, Subpart 32.9—Prompt Payment, the due date for making an invoice payment is as follows:

- The later of the following two events:
 - The 30th day after the billing office receives a proper invoice from the contractor,
 - The 30th day after Government acceptance of supplies delivered or services performed.
- The Embassy requests payment from Global Financial Servicing Center in Charleston USA, which EFT's the funds into the vendor's account.