

**§ 8.404-2 Ordering procedures for services using a statement of work.**

(a) Ordering offices shall use the procedures in this subsection when ordering services priced at hourly rates in the schedule contracts. The applicable services will be identified in the Federal Supply Schedule publications and the contractor's catalogs/pricelists.

(b) *Orders at or below the micro-purchase threshold.* Ordering offices may place orders at or below the micro-purchase threshold with any Federal Supply Schedule contractor that can meet the agency's needs.

(c) *For orders exceeding the micro-purchase threshold.* The ordering office shall develop a statement of work. All statements of work shall include the work to be performed, location of work, period of performance, deliverable schedule, applicable standards, and any special requirements (e.g., security clearances, travel, special knowledge).

(1) Agencies shall use performance-based statements of work to the maximum extent practicable. When preparing statements of work, ordering offices shall, to the maximum extent practicable—

(i) Describe the requirements in terms of results required rather than the methods of performance of the work;

(ii) Rely on the use of measurable performance standards and financial incentives to encourage innovative and cost effective methods of performing the work; and

(iii) Develop a quality assurance surveillance plan that will be used to monitor performance.

(2)(i) For proposed orders not expected to exceed the maximum order threshold, the ordering office must provide the statement of work, and selection criteria (e.g., experience and past performance) to at least three schedule contractors. Schedule contractors should be requested to submit firm-fixed prices to perform the services identified in the statement of work.

(ii) For proposed orders exceeding the maximum order threshold or for establishing a BPA (see 8.404-3), the ordering office shall, in addition to meeting the requirements of paragraph (c)(2)(i), provide the statement of work and selection criteria to an appropriate number of additional schedule contractors that offer services that will meet the agency needs.

(iii) The ordering office shall provide the statement of work and selection criteria to any schedule contractor who requests a copy of it.

(3) The ordering office shall evaluate responses received against the selection

criteria provided to the schedule contractors. The ordering office is responsible for considering the level of effort and mix of labor proposed to perform a specific task being ordered and for making a determination that the total price is reasonable. Place the order or establish the BPA with the schedule contractor that represents the best value (see 8.403).

(4) To the maximum extent practicable, ordering offices shall develop quality assurance surveillance plans (see 37.602-2) when using a performance-based statement of work. These plans shall recognize the responsibility of the contractor (see 46.105) to carry out its quality control obligations and shall contain measurable inspection and acceptance criteria corresponding to the performance standards contained in the statement of work. The quality assurance surveillance plans shall focus on the level of performance required by the statement of work, rather than the methodology used by the contractor to achieve that level of performance.

7. Revise section 8.404-3 and the section heading to read as follows:

**8.404-3 Blanket purchase agreements (BPAs).**

(a)(1) *Establishment.* Ordering offices may establish BPAs under any schedule contract to fill repetitive needs for supplies or services. BPAs may be established with one or more schedule contractors. The number of BPAs to be awarded is within the discretion of the office establishing the BPA. The number of BPA awards should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). In determining how many BPAs to award, consider—

(i) The scope and complexity of the requirement(s);

(ii) The technical qualifications of the Schedule contractor(s);

(iii) The administrative costs of BPAs; and

(iv) The need to periodically compare multiple technical approaches or prices.

(2) Award of a single BPA or multiple BPAs shall be made using the procedures of 8.404-1 or 8.404-2. BPAs shall address the frequency of ordering, invoicing, discounts, requirements (e.g. estimated quantities, work to be performed), delivery locations, and time. In addition, multiple BPAs shall specify the procedures for placing orders under the BPA.

(3) Establishment of a multi-agency BPA against a Federal Supply Schedule is permitted if all participating agencies are signatories to the BPA.

(b) *Ordering from blanket purchase agreements (BPAs)—(1) Single award BPA.* If the ordering office awards one BPA, authorized users may place the order directly under the established BPA when the need for the supply or service arises.

(2) *Multiple BPAs.* If the ordering office awards multiple BPAs, before placing an order exceeding \$2,500, the ordering office shall—

(i) Forward the requirement or statement of work along with the selection criteria to the number of BPA holders according to the procedures provided in the BPA;

(ii) Evaluate the responses received and make a best value determination (see 8.403); and

(iii) Award the order to the schedule contractor that represents the best value.

(3) If the BPA is for hourly rate services, the ordering office shall develop a statement of work for requirements covered by the BPA, unless the BPA contains fixed prices for specific tasks. All orders under the BPA shall specify a price for the performance of the specific task identified in the statement of work.

(c) *Review of BPAs.* Ordering offices shall review BPAs at least once a year. The purpose of the review is to determine whether the BPA still represents the best value (see 8.403). During the annual review, agencies shall consider whether additional price reductions could be obtained if estimated quantities/amounts have been exceeded and seek price reductions where possible.

8. Add sections 8.404-4, 8.404-5, 8.404-6, 8.404-7, and 8.404-8 to read as follows:

**8.404-4 Price reductions.**

In addition to the circumstances in paragraph 8.404-1(d), there may be other reasons to request a price reduction. For example, ordering offices should seek a price reduction when the supply or service is available elsewhere at a lower price or when establishing a BPA to fill recurring requirements. The potential volume of orders under BPAs, regardless of the size of the individual order, offers the opportunity to secure greater discounts. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual agency for a specific order.

**8.404-5 Small business.**

When conducting evaluations or establishing a BPA and before placing an order, consider including, if available, one or more small business, veteran-owned small business, service-