



**U.S. DEPARTMENT OF COMMERCE  
SMALL BUSINESS PROGRAM  
MANUAL**

**MARKET RESEARCH  
Chapter Two**

# MARKET RESEARCH

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## **Chapter Two**

# **MARKET RESEARCH**

## **SECTION 1 – OVERVIEW**

### **1.1 Background**

Market research is the act of gathering and analyzing recent information about products, services, industry best practices, potential solutions, and vendor capabilities to satisfy the Department of Commerce (DOC) requirements. It is DOC's policy that the contracting officer and acquisition planning team perform appropriate market research for all acquisitions, regardless of dollar value. The benefits of market research are (1) to learn as much as possible about the market to assess how best to solicit and purchase products, services, and solutions and (2) to inform industry about DOC's requirements, garner the interest of firms to participate in our acquisition process, and allow firms the opportunity to provide feedback on our planned acquisition strategy.

### **1.2 Purpose**

The Department of Commerce (DOC) Small Business Program Manual (CSBPM) provides guidance to offices and operating units, including procurement offices, to ensure uniformity in market research methods to demonstrate due diligence in giving socioeconomic small business and small business concerns first consideration for award (set-aside or sole source). Further, the CSBPM provides guidance for how to attain as much information as possible to make smart business decisions, assure a robust competition, and maximize the utilization of socioeconomic small business and small business concerns in DOC's acquisitions, regardless of the dollar value of the acquisition and place of performance.

The CSBPM and acquisition guidance issued by the Office of Acquisition Management (OAM) shall be used in tandem. If there is any conflict between the CSBPM and OAM's guidance, the Federal Acquisition Regulation (FAR) and U.S. Small Business Administration (SBA) regulation (13 Code of Federal Regulations (13 CFR)) take precedence. Any perceived conflict between the CSBPM and OAM's guidance should be directed to the bureau small business specialist, who will bring it to the attention of the OSDBU Director.

### **1.3 Applicability**

The requirements of this chapter are applicable to all acquisitions within DOC and its Operating Units, within the United States and its outlying territories and outside the United States and its territories.

**END OF SECTION 1**

## **SECTION 2 – MARKET RESEARCH**

### **2.1 Roles and Responsibilities**

The contracting officer, small business specialist, technical personnel, and other members of the acquisition planning team, as appropriate, shall work collaboratively to perform market research specific to the planned acquisition. The contracting officer and acquisition planners have the discretion to determine how best to effectively conduct and use market research. However, the contracting officer and acquisition planners must be able to demonstrate due diligence in making small business concerns aware of the planned acquisition (see FAR 5.201(c)) and giving socioeconomic small business and small business concerns first consideration for the acquisition, regardless of acquisition value and place of performance.

The small business specialist will observe market research activities, including posted public notices, to ensure that activities encourage participation by socioeconomic small business and small business concerns to the fullest extent possible and may make recommendations designed to increase participation by socioeconomic small business and small business concerns accordingly. The contracting officer shall work cooperatively with the small business specialist to apply the recommendations.

### **2.2 Timely Market Research**

The contracting officer and acquisition planning team shall rely on recent market research specific to the acquisition, conducted within the past 12 months, or for task/delivery orders within the past 18 months, from the date the CD-570, Small Business Set-Aside Review, is received by the small business specialist, to support planning decisions. However, if the contracting officer and acquisition planning team believe that market research older than 12 months is relevant to the acquisition (other than for task/delivery orders), the contracting officer may prepare written justification explaining the rationale for relying on older market research.

Market research is required for all actions, including new and existing (i.e., re-compete and follow-on) for definitive contracts, indefinite contracts, multiple award contracts (and task and delivery orders issued against multiple award contracts awarded under full and open competition), task and delivery orders against Government-wide Acquisition Contracts (GWACs), Federal Supply Schedule (FSS) contracts, Blanket Purchase Agreements (BPA), and prior to the exercise of an option period.

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Market research is required when contemplating any of the authorities under FAR subpart 6.3, Other Than Full and Open Competition. (See Chapter 1, attachment 2, Justification and Approval Process, for additional authorities). The results of market research shall demonstrate that as many potential small business sources were contacted as practicable under the circumstances and that the results were used to devise an acquisition strategy to enhance small business participation as prime contractors and subcontractors. The results of market research shall be included as part of the required justification for using FAR subpart 6.3 or a statement explaining the reason market research was not conducted.

### 2.3 Definitions

For planning and market research purposes, the contracting officer should classify an acquisition based on the following categories:

- a. New requirement – A requirement that has not been previously procured by the bureau or by another contracting office acting on behalf of the bureau and the requirement is not related to purpose or scope to any existing contract(s) or contract(s) that ended within the past 12 months; or
- b. Existing requirement
  - (i) A requirement that may have subsumed some part or parts of an existing contract or a contract that ended within the past 12 months. However, see section 10 – Bundling and section 11 – Consolidation of this chapter, if applicable.
  - (ii) Re-compete – A reoccurring or repetitive requirement that is currently being met under an existing contract or order, or under a contract or order that ended within the past 18 months. The requirement may have been altered or modified prior to re-competition. However, the changes or modifications did not cause a change in the purpose of the acquisition.

### 2.4 Components of Effective Market Research

The contracting officer and acquisition planning team shall use market research to achieve the following objectives: develop market intelligence, understand industry capabilities, utilize small business concerns, and garner industry interest in submitting offers.

### **2.4.1 Develop Market Intelligence**

The contracting officer and acquisition planning team shall engage in meaningful exchange of information with industry and other government agencies to gather and analyze information about products, services, industry best practices, and potential solutions.

### **2.4.2 Understand Industry Capabilities**

The contracting officer and acquisition planning team shall determine the feasibility of the requirement by learning from industry if the requirement can be met by industry, and if the requirement can be met with commercial items versus items developed or built to government specifications.

### **2.4.3 Utilize Small Business**

The contracting officer and acquisition planning team shall determine—

- a. Set-Aside or Sole Source: Exchange meaningful information with socioeconomic small business and small business concerns to learn as much as possible about industry capabilities and core competencies relevant to the principle purpose of the acquisition.
- b. Full and Open Competition with Small Business Subcontracting: If market research indicates that it is unlikely that the planned acquisition can be set-aside for small business, engage with both small businesses and other than small business concerns to determine if subcontracting possibilities exist. Reference FAR 19.705-2 and the CSBPM, Chapter 1, section 16 – Small Business Subcontracting Program.

### **2.4.4 Garner Industry Interest**

The contracting officer and acquisition planning team shall use a variety of methods to make industry aware of a planned acquisition and provide interested small business concerns with as much information as possible so that they can gain an understanding of the requirement and initiate planning efforts as potential offerors.

## 2.5 Market Research Tools and Methodologies

The contracting officer and acquisition planning team shall use discretion in utilizing market research tools and methodologies to achieve the objectives identified in this section. Such tools and methodologies are described in this section.

### 2.5.1 Identify Potential Socioeconomic Small Business and Small Business Suppliers

The contracting officer and acquisition planning team shall use SBA's [Dynamic Small Business Search](#) as the primary database for locating qualified small business concerns. The contracting officer and acquisition planning team may use secondary databases such as the Department of Veterans Affairs [Vendor Information Pages](#), [System for Award Management \(SAM\)](#), [Federal Procurement Data System](#), and trade group databases. The contracting officer and acquisition planning team may also use vendor lists compiled by DOC small business specialists, and information gathered from one-on-one meetings with small business concerns, industry day conferences, and small business conferences.

### 2.5.2 Publicize Market Research

Use the Federal Business Opportunities website (FBO.gov) to transmit market research notices to provide socioeconomic small business and small business concerns, including incumbent small business contractors, advanced information concerning the planned acquisition. (For information technology acquisitions, the contracting officer and acquisition planners may transmit market research notices using GSA eBuy for schedule 70 and/or GWAC platforms).

- a. There are distinct differences between Request for Information (RFI) and a Sources Sought notice.
  - (i) Acquisition Planning Purpose: In accordance with FAR 15.201(e), an RFI may be used when the Government does not presently intend to award a contract, but wants to obtain information that will be used to plan the acquisition. Such information may be used to determine the feasibility of the requirement, including industry capabilities to deliver commercial products, services, or solutions, or to deliver a developmental item based on government specifications, price range, delivery terms, and other market information. This approach is best suited for the government's need to gather information for planning purposes. However, this type of notice should not be

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used to notify firms about a definite acquisition or gauge firms' intent to participate in the solicitation.

- (ii) Garner Vendor Interest in Submitting Offer: In accordance with FAR 5.201(c), the primary purpose of issuing a Sources Sought notice is to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities. This approach shall be used to support the determination to set-aside the acquisition or award on a sole source basis under FAR part 19. This approach may also be used to conduct a broader industry search (see section 2.6.3 of this chapter).

- b. For market research notices, the contracting officer shall not select and use "Pre-Solicitation" and "Special Notice" from the FBO drop down menu for "Notice Type". If the contracting officer chooses to use the "RFI" approach, the contracting officer should be aware that "RFI" is not a choice on the drop down menu for notice type. Therefore, the contracting officer shall only use "Sources Sought" for notice type. This will allow small business concerns to use the advanced search function on FBO to locate opportunities without a specific solicitation number. The contracting officer shall not use "Intent to Sole Source" or similar wording and methodology as market research. Such language and approach is restrictive and poses an unnecessary barrier to vendor participation.

### c. Elements of the Market Research Notice

The contracting officer and acquisition planning team shall ensure that the market research notice includes the following elements:

#### (i) Restricted or Open

1. For Sources Sought notice, select "Total Small Business" for the "set-aside" data field when using market research to support a set-aside determination.
2. For RFI, the contracting officer has the option to select "set-aside" or "any" for the "Set-aside" data field.

#### (ii) Provide Useful Information

1. The Sources Sought notice shall provide sufficient background information to give interested firms the context or framework for the requirement, general description of the scope and purpose, and the minimum technical/functional requirements (e.g., the primary or essential tasks to be performed).

2. The RFI notice shall provide sufficient background information to give interested firms the context or framework for the potential requirement or a requirement that is not yet defined. The notice may include the objectives to be achieved for outcome or performance.

(iii) Request Corporate Capability Information

1. The Sources Sought notice may request firms to submit capability information for use by the contracting officer and acquisition planning team. However, the contracting officer shall not require firms to submit more than the minimum information necessary to achieve the objectives of the market research (FAR 10.001(b)). The Sources Sought notice may:
  - a) Request interested firms to provide comments on acquisition approach, schedule, draft statement of work/performance statement, draft solicitation, and other components of the acquisition strategy as appropriate; and
  - b) Request interested firms to respond to questions and provide information about their capabilities and experiences relevant to the principal work of the planned acquisition. The contracting officer shall not ask firms to describe “how” they would perform certain aspects of the planned acquisition, including identifying key labor categories or personnel that would perform the work. Firms shall not be required to demonstrate they can perform 100% of the work in order to be determined capable of meeting the requirement, or be required to discuss their plans to use subcontractors.
2. The RFI notice may request firms to submit information for use to help determine the feasibility of the requirement and plan the potential acquisition. The contracting officer and acquisition planning team may request firms to submit detailed information on commercial products and services, including compatibility with identified existing systems, ability to customize, price range, delivery terms, and other commercial information. The contracting officer and acquisition planning team shall not evaluate or judge firms as capable or not capable based on the RFI approach.

### 2.5.3 Conduct Meaningful Exchange of Information With Interested Vendors.

- a. Provide opportunity for interested firms to discuss the requirement and acquisition method, in writing or verbally, with the contracting officer, technical or subject matter expert, and/or program personnel. A meaningful exchange of information helps both parties by:
  - (i) Increasing the knowledge of the contracting officer and acquisition planning team on topics such as industry capabilities, latest technology and compatibility with existing technology, solutions used by other federal agencies, and market pricing. The contracting officer and acquisition planning team may also request vendor feedback on the draft statement of work/performance statement or draft solicitation to eliminate any ambiguities and errors and improve efficiency in the solicitation phase (i.e., reduce the number of amendments).
  - (ii) Improving firms' understanding of government's requirement by providing the opportunity to ask questions and offer recommendations before the solicitation is issued. This will help to increase efficiency in proposal preparation and increase the likelihood of receiving better quality proposals.
- b. The contracting officer and acquisition planning team may use discretion to determine most suitable method of exchanging information with interested firms. Examples:
  - (i) Hold open forum conferences to provide firms with the ability to learn more details about the planned acquisition, make comments, ask questions, and network to explore teaming arrangements with other business concerns. The contracting officer shall post announcements for such events on FBO under the original market research solicitation number. In addition, the contracting officer shall use the *Small Business Central Event Listing* on FBO.
  - (ii) Hold one-on-one vendor meetings with small business concerns. Provide interested small businesses with the ability to meet one-on-one with the contracting officer, technical or subject matter expert, and/or program personnel to discuss requirement, alternative acquisition strategies, industry solutions, and ask questions.
  - (iii) Attend small business outreach events hosted by DOC, other federal agencies, and advocacy organizations to identify and meet with potential small business contractors and garner their interest in the planned acquisition.

## 2.6 Order of Precedence in Search for Potential Sources

### 2.6.1 Existing DOC Contract Vehicles

The contracting officer and acquisition planning team shall consider whether the requirement can be met by an existing DOC strategically sourced contract or bureau-specific contract.

The contracting officer shall contact the [DOC Strategic Sourcing Program Office](#) or visit its [website](#).

### 2.6.2 Small Business Market Research

- a. Acquisitions valued above the Simplified Acquisition Threshold (SAT)
  - (i) The contracting officer and acquisition planning team shall first consider if socioeconomic small business concerns can meet the requirement, competitive or sole source award. If socioeconomic small business concerns cannot meet the requirement, then the contracting officer and acquisition planning team shall consider small business award. Small business set-aside takes precedence over full and open competition.
  - (ii) The contracting officer and acquisition planning team shall direct market research efforts to socioeconomic small business concerns to make them aware of the requirement and gather information, as appropriate, to determine if the acquisition can be met by any of the socioeconomic contracting programs: 8(a), EDWOSB, WOSB, HUBZ, and SDVOSB, as set-aside or sole source. There is no order of priority among the socioeconomic programs. However, when deciding among the socioeconomic programs, the contracting officer and acquisition planners shall rely on the results of market research, purpose of the contract, programmatic objectives, recent acquisition history, and consultation with the small business specialist on the status of the bureau's socioeconomic small business goal achievement to determine which socioeconomic program would best benefit the planned acquisition and concurrently support the bureau's efforts toward goal achievement. The contracting officer shall document rationale used to support the specific set-aside, including the type and extent of market research conducted. If market research fails to identify at least two socioeconomic small business concerns capable of meeting the requirement or at least one socioeconomic small business concern under the FAR Part 19 sole source authority, the contracting officer and acquisition planners shall direct market research efforts to small business concerns.

- (iii) During market research, the contracting officer and acquisition planning team shall not require socioeconomic small business and small business concerns to demonstrate they can perform 100% of the work in order to be determined capable of meeting the requirement, or discuss their plans to use subcontractors.

The contracting officer and acquisition planning team shall identify and communicate to the vendor community, the core or principle work to be performed. Market research shall focus on the capabilities of vendors to perform the core or principle work.

- b. Acquisitions valued above the micro-purchase threshold and below the SAT.

Acquisitions at this dollar threshold are automatically reserved exclusively for small business concerns unless the contracting officer and acquisition planning team determine that the planned acquisition cannot be met by a socioeconomic small business or small business concern based upon recent market research conducted within 12 months, or for task/delivery orders 18 months, from the date the CD-570, Small Business Set-Aside Review, is received by the small business specialist.

Contracting officers, purchasing agents, personnel granted delegated procurement authority, purchase card holders, and acquisition planners are required to first consider setting-aside acquisitions for socioeconomic small business concerns before considering small business set-aside.

If, based on recent market research, the requirement cannot be met by a socioeconomic small business or small business concern, as a total set-aside, partial set-aside, or sole source, the contracting officer, purchasing agent, personnel granted delegated procurement authority, and purchase card holder shall document the determination and submit the documentation, along with a signed CD-570, Small Business Set-Aside Review, to the small business specialist to request approval to proceed with an acquisition strategy outside of the Small Business Program.

### **2.6.3 Market Research Open to All Vendors**

If the contracting officer and acquisition planning team are unable to identify qualified socioeconomic small business or small business concerns capable of meeting the planned acquisition, the contracting officer and acquisition planning team shall consult with the small business specialist and PCR, if a PCR is assigned to the bureau, who will offer alternative strategies to maximize small business participation and assist in identifying small businesses that are capable of performing the requirement. The contracting officer and acquisition planning team are required to work cooperatively with the small business specialist and PCR to carry out their recommendations to identify qualified socioeconomic small business and small business concerns, consider alternative acquisition strategies to increase socioeconomic small business and small business participation, and analyze market research results. If the contracting officer and acquisition planning team are still unable to identify qualified socioeconomic small business and small business concerns, then the contracting officer, with assistance from the acquisition planning team, shall prepare and submit to the small business specialist, a justification to—

- a. Continue market research open to all interested concerns, including large for-profit, not-for-profit, and educational institution concerns (e.g., Historically Black Colleges and Universities (HBCUs) and Minority Serving Institutions (MSIs)). Small business concerns, including those that participated in the initial market research effort, shall be given the opportunity to participate in the ongoing market research effort; or
- b. Conclude the market research, document the contract file, and submit the CD-570, Small Business Set-Aside Review, to the small business specialist for approval before proceeding with the acquisition strategy and before release of the solicitation.

### **2.7 Consolidation or Bundling**

For a planned acquisition that could lead to a bundled, substantially bundled or consolidated contract, the contracting officer and acquisition planning team shall conduct market research to determine the feasibility of combining two or more requirements or two or more contracts; the extent of small business participation, especially as prime contractors; and necessity and justification for such an acquisition approach. Reference FAR 7.107; the Commerce Small Business Program Manual, Chapter 1, section 10 – Bundling and section 11 - Consolidation.

### **2.7.1 Feasibility of Combining Requirements or Contracts**

The contracting officer and acquisition planning team shall conduct market research to determine if sources exist that can satisfactorily perform the larger combined acquisition at reasonable cost or price.

### **2.7.2 Extent of Small Business Participation**

The contracting officer and acquisition planning team shall rely on market research to assess the extent of small business participation at the prime and subcontracting level. The contracting officer and acquisition planners shall:

- a. Conduct market research of socioeconomic small business and small business concerns, including incumbent contractors who are currently performing or previously performed any part or parts of the contemplated bundling or consolidated acquisition, to determine if the requirement can be set-aside or awarded as a sole source under FAR part 19. Small business set-aside takes precedence over partial set-aside, full and open competition, and full and open competition with small business reserve.
- b. Consider small business teaming arrangements, including joint ventures and mentor-protégé joint ventures, as potential offerors.
- c. Any acquisition requirement that has been accepted by the SBA under the 8(a) Program must remain in the 8(a) Program unless the SBA agrees to its release in accordance with FAR 19.203 and 19.815, and 13 CFR 124.504(d). The contracting officer shall comply with the Departmental policy to request release of a requirement accepted by SBA into the 8(a) Program prescribed in the Partnership Agreement found in the CAM and guidance provided in the Commerce Small Business Program Manual (CSBPM), section 4 – The Small Business 8(a) Program.

### **2.8 Multiple Award Contract**

For any planned multiple award contract (MAC) acquisition, the contracting officer and acquisition planning team shall conduct market research to determine if there is a reasonable expectation of obtaining offers from at least two small business concerns that are competitive in terms of market prices, quality, and delivery. Socioeconomic small business set-aside takes priority over small business set-aside, and small business set-aside takes priority over full and open competition, including full and open competition with small business reserves.

## 2.8.1 Alternative Strategies

When market research indicates that a total set-aside is not possible because of the unlikelihood of obtaining offers from at least two small business concerns, then the contracting officer and acquisition planning team may continue to conduct market research to inform and support alternative acquisition strategies such as partial set-aside, full and open competition with small business reserves, or set-aside at the order level.

## 2.8.2 Task or Delivery Orders

### a. General

The contracting officer and acquisition planning team shall conduct market research to determine if an order can be set-aside and competed among contract holders belonging to one of the socioeconomic small business categories or competed among small business contract holders when a MAC has been awarded under full and open competition. If the order cannot be set-aside for one of the socioeconomic categories, then the contracting officer and acquisition planning team shall consider small business set-aside before full and open competition that includes large businesses.

### b. Federal Supply Schedule

Contracts under the General Services Administration (GSA) Federal Supply Schedules (FSS) Program are considered multiple award contracts (MAC). The use of the FSS is not mandatory for DOC. Unless the Schedule specifically identifies DOC or civilian agencies as required to use the contract as a primary source of products or services, the use of the Schedule contract is optional. When contemplating the use of a FSS contract that was competed on a full and open basis, the contracting officer and acquisition planning team shall conduct market research and—

- (i) Give first consideration to set-aside under one of the socioeconomic categories before considering small business set-aside. Set-aside takes precedence over full and open competition.
- (ii) Identify the most prevalent NAICS code used by the contractors under the Schedule contemplated for use and that concurrently is appropriate for the product or service to be acquired to ensure adequate competition among concerns that meet the size standard for the NAICS code assigned to the order.

(iii) Blanket Purchase Agreement - The contracting officer and acquisition planning team shall first consider socioeconomic small business when contemplating the establishment of a single BPA or multiple BPAs. If the BPA(s) cannot be set-aside for one of the socioeconomic categories, then the contracting officer shall consider small business set-aside before full and open competition.

**c. GWACs**

The contracting officer shall first consider setting aside the order for one of the socioeconomic categories before considering small business set-aside. Small Business set-aside takes precedence over competition among all contract holders.

**2.9 Brand Name or Equal**

For requirements that cannot be described in terms of performance, functionality, or physical characteristics, an alternative method that can be used to describe a requirement is “brand name or equal.” The use of “brand name or equal” description shall not be used as an acquisition strategy or justification to support only one source.

The contracting officer and acquisition planning team shall conduct market research to gather information about the products of other manufacturers to determine if other products possess the necessary characteristics or if other products can be modified to meet the requirement.

**2.9.1 Publicize Market Research**

The contracting officer shall publicize market research to make industry, particularly socioeconomic small business and small business concerns, aware of the planned acquisition. If posting market research on FBO, the market research notice shall be issued under the notice type: “Sources Sought” and not “Intent to Sole Source” or any other notice type.

In the market research notice, the contracting officer shall describe the requirement as “brand name or equal” and provide (a) the brand name of the product and (b) the general salient characteristics of the product that are deemed essential to meet the requirement. The description of the specific salient characteristics shall be stated in sufficient terms to clarify “or equal” and avoid limiting competition. (See FAR 11.104).

As part of market research, the contracting officer and acquisition planning team shall consider socioeconomic small business and small business suppliers and manufacturers as potential sources for meeting the requirement.

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The documentation or justification is posted for acquisitions over \$25,000. (See 5.102(a)(6).). For multiple award schedule orders, see 8.405-6. For orders under indefinite-quantity contracts, see 16.505(a)(4).

**END OF SECTION 2**

## **SECTION 3 – WHAT IS NOT MARKET RESEARCH**

The following actions are not acceptable for use as market research and to support acquisition decisions.

### **3.1 Responsibility Determination**

After the solicitation has been issued and prior to contract award, the contracting officer is responsible for determining if the prospective contractor has the means and ability to start and complete the contract. This type of assessment shall not occur during the market research phase and interested vendors, including socioeconomic small business and small business concerns, shall not be required to provide such information as:

- a. Proof of ability to obtain resources, including bonding and financing;
- b. Gauging the extent of utilization of subcontractors;
- c. Proof of the ability or commitment to comply with the “Limitation of Subcontracting” requirement by an interested small business concern;
- d. Firm’s organizational structure;
- e. Assessing a firm’s facilities, equipment, and other capital assets;
- f. Proof of firm’s revenue and number of employees; and
- g. References

### **3.2 Proposed Methodology**

The contracting officer and acquisition planning team shall not assess or attempt to assess how an interested firm plans to meet the requirements of the planned acquisition. Interested firms, including socioeconomic small business and small business concerns, shall not be required to provide such information as:

- a. Identification of key personnel or personnel on staff;
- b. Description for how the firm will perform the requirement and/or how the firm will manage the contract;
- c. Cost and pricing information applied to the planned acquisition.

The contracting officer and acquisition planning team shall not use market research to compare the capabilities or pricing of small business concerns to those of large business concerns.

### **3.3 Pre-Qualification**

Market research shall not be used to judge whether certain firms would likely be viable competitors. Market research shall not be used to evaluate firms individually in advance of issuing the solicitation.

### **3.4 Validation of Pre-Determined Full and Open Competition Strategy**

Market research shall not be used to justify a full and open competition strategy prior to giving fair consideration to a socioeconomic small business or small business set-aside. Market research conducted in such a way as to prove or support a pre-conceived full and open competition strategy, including full and open competition with small business reserves, circumvents the Small Business Act and mandated priority to socioeconomic small business and small business concerns.

### **3.5 Overly Burdensome Information Request**

Market research shall not require firms to submit more than the minimum information necessary for market research purposes. Examples of overly burdensome information requests include—

- a. Describe capability to perform every aspect of the statement of work or the majority of the statement of work;
- b. Describe capability to perform a lengthy list of items that includes auxiliary or collateral work;
- c. Describe “how” vendor intends to meet the requirement or perform the statement of work;
- d. Provide rough order of magnitude pricing specific to the planned acquisition;
- e. Provide proof of bonding or proof of financing;

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- f. Provide the names of key personnel that will be assigned to requirement, include resumes;
- g. Provide staffing plan; and
- h. Provide proof of firm's capacity to perform the work.

**END OF SECTION 3**

## **SECTION 4 – ASSESSMENT OF MARKET RESEARCH**

### **4.1 Purpose**

The primary purpose for requesting vendor information in response to a market research request is to: (1) become educated about products, services, industry best practices, and potential solutions and (2) determine which type of set-aside to use. If the requirement cannot be set-aside, the market research analysis shall support this decision.

When the contracting officer and acquisition planning team desire to have firms provide descriptions of their capabilities and experience relevant to the planned acquisition, then the market research notice (“Sources Sought”) shall provide sufficient information for the firms to understand the scope and purpose of the requirement. The contracting officers and acquisition planners should provide at a minimum—

- a. Background and history of the requirement
- b. Acquisition history (i.e., new requirement, recompetes, follow-on; name of incumbent contractor and contract number; other relevant information)
- c. Draft statement of work or draft solicitation
- d. Tentative acquisition schedule

The contracting officer and acquisition planning team shall identify the essential portions of the principal work or the subset of tasks from the statement of work deemed essential to the planned acquisition. Firms shall be requested to describe their relevant capability and experience for the essential work.

The contracting officer and acquisition planning team shall not require firms to address every component of the requirement (i.e., each section of the statement of work/performance work statement). Firms are not required, and should not be expected, to provide the level of detail in a response to market research comparable to a response to a solicitation.

### **4.2 Prerequisite to Assessment of Market Research**

The contracting officer and acquisition planning team shall take the necessary steps to ensure the process to assess vendor capabilities, especially the capabilities of socioeconomic small business and small business concerns, is conducted in a fair and objective manner, and applied consistently to all firms. Prior to requesting information from firms, the contracting officer and acquisition planning team shall determine:

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- a. The principle work for the acquisition (i.e., functional areas, categories, CLINs) that will be used to assess the firms' capabilities.
- b. How information submitted by firms should be formatted and submitted to facilitate assessment of capabilities. The contracting officer:
  - (i) May provide document formatting guidance to interested firms such as maximum number of pages, font size, and spacing to promote uniformity in submission.
  - (ii) May not be overly restrictive in the way firms provide information, especially in the use of customary commercial practices for submitting market information.
  - (iii) May not disqualify a firm or refuse to consider a firm's response that does not comply with submission instructions.
- c. How information submitted by vendors will be adequately safeguarded from unauthorized disclosure.
- d. How commercially available pricing or published pricing shall be used to support the set-aside determination. Market research may include the examination of information from a variety of sources such as small business catalog prices or prices of similar items sold previously by small business concerns to government or non-government entities. The contracting officer and acquisition planning team shall not compare prices of large business concerns with prices offered by small business concerns to disqualify a set-aside.
- e. Method that will be used to assess the firms' capabilities to perform the requirement. The contracting officer and acquisition planning team shall:
  - (i) Ensure that the method is adequately described in the Sources Sought notice so that vendors will understand the purpose and process; and
  - (ii) Ensure that the method is followed during the assessment process and results documented.

### 4.3 Assessment

The contracting officer and acquisition planning team shall objectively review information collected from market research, including an RFI if one was issued, to determine the feasibility of the requirement, industry capabilities to deliver commercial products, services, or solutions,

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or to deliver a developmental item based on government specifications, price range, delivery terms, and other market information.

The contracting officer and acquisition planning team shall objectively assess firms' capabilities to perform the requirement, extent of small business participation, and the appropriate acquisition approach.

The contracting officer is responsible for ensuring that the assessment of firms' capabilities is conducted in a uniformed and fair manner. At a minimum, the assessments shall—

- a. Be conducted in accordance with instructions given to firms.
- b. Consider firms' capabilities relevant to work identified as essential in the market research notice (i.e., essential portions of the principal work or the subset of tasks from the statement of work deemed essential to the planned acquisition).
- c. Consider the minimum level of capability necessary to meet the requirement as it is described in the market research notice versus judging firms to determine the "best sources."
- d. Do not assess firms, or in some manner downgrade an assessment, for not addressing the non-essential portions of the statement of work. Do not treat the absence of such information as an indication of the firm's inability to meet the requirement.
- e. Be conducted in an impartial and objective manner based on factual information. (The contracting officer and acquisition planning team shall avoid interjecting personal bias. Using words like "confidence," "trust," "seemed," "hesitant," and "may not" suggest a subjective evaluation which can be construed to be an assessment of responsibility rather than a general assessment of capability).
- f. Do not consider firm's past performance or use of subcontractors as these factors are elements of responsibility determination and is not appropriate to assess prior to proposal evaluation.

## **4.4 Market Research Report**

### **4.4.1 Purpose**

The contracting officer and acquisition planning team shall prepare the required market research report to document methods and results used to:

- a. Gather information;
- b. Analyze the feasibility of the requirement;
- c. Assess capabilities of potential sources;
- d. Develop acquisition approach; and
- e. Develop findings and conclusion.

The market research report shall be included in each contract file and must also be included with other supporting documentation for the acquisition approval process, including the CD-570, Small Business Set-Aside Review. The market research report may be presented as a stand-alone document and/or incorporated into the acquisition plan when an acquisition plan is required.

### **4.4.2 Criteria for Market Research Report**

There is no specific format for the market research report. This section identifies the minimum required elements of the market research report. The contracting officer and acquisition planning team shall refer to bureau procedures for any additional requirements for documenting market research.

- a. Solicitation/Requisition Number
- b. Acquisition Title
- c. Program Office Technical Contact (Name, Phone Number, Email)
- d. Estimated Total Contract Value: provide a breakdown of estimated contract by base period, each option period, optional CLINs, and total contract value.
- e. Period of Performance: provide a breakdown of contract duration by base period and each option period.

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- f. Feasibility of the Requirement: indicate if the requirement can be met by commercial product or service, commercial product or service with customary or minor modifications, or developmental item(s).
- g. Description: Provide a brief description of the minimum requirements in terms sufficient to convey the purpose of the acquisition. Limit the description to:
  - (i) The top essential tasks and/or skill sets used to conduct market research;
  - (ii) Functional or performance requirement; or
  - (iii) Essential physical characteristics
- h. Applicable laws, regulations, or policies unique to the required supplies/services (if known).
- i. NAICS Codes/Size Standards:
  - (i) Provide the NAICS code and any applicable endnotes or exceptions used to identify the requirement.
  - (ii) The NAICS code identified in the Market Research Report should be consistent with NAICS code publicized via the market research notices, and the CD-570 Small Business Set-Aside Review form.
- j. Acquisition Background and History: State whether the acquisition is new, follow-on, re-compete. If the acquisition is a follow-on or re-compete acquisition, provide the acquisition history using the table below.

Contract #	Name	Size	Method of Competition	Period of Performance	# of SB Offers

k. Market research activities and results:

- (i) Time period when market research was conducted
- (ii) Findings of suitability of acquisition approach. Provide the following information:
  - (1) Describe how market research was used to support the development and selection of the acquisition approach;
  - (2) Describe efforts to consult with small business specialist and PCR (if a PCR has been assigned to the bureau);
  - (3) For bundling or consolidation, provide the signed Determinations and Findings (D&F) prescribed in the Commerce Small Business Program Manual, Chapter 1, section 10 – Bundling and section 11 - Consolidation.
- (iii) Extent of Small Business Participation. Provide the following information:
  - (1) Describe methodology used to reach as broad a pool as possible of socioeconomic small business and small business concerns.
  - (2) Include the list of socioeconomic small business and small business concerns that were used to determine that the requirement could be set-aside or awarded on a sole source basis under FAR part 19 or could not be set-aside or sole sourced. Include the assessment of vendor capabilities if the requirement is not set-aside or sole sourced.
- (iv) Market research inclusive of all vendors. If applicable, describe method used to widen market research of qualified vendors after concluding that small businesses were not available or capable of meeting the requirement.
- (v) Small business subcontracting. Provide the following information:
  - (1) Describe method used to determine if subcontracting possibilities exist.
  - (2) Describe method used to develop target subcontracting goals for socioeconomic small business and small business concerns.
  - (3) Describe how target goals will be used, i.e., to establish a negotiation position or inserted in the solicitation as the minimum or baseline for offerors to meet.

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- I. Signatures, as designated by each bureau, are required to identify the person(s) responsible for the management, oversight, and approval of the market research process, report, and results.

**END OF SECTION 4**