



The Ins & Outs of SBIR Contracting

SBIR Contracting Theory & Processes

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Presented By

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BIO

- ❖ Bytecubed Sr. Program Analyst
- ❖ 15 years of Federal & Commercial Contracting Experience
- ❖ Held Unlimited Warrant With DOD
- ❖ Published Author: NCMA, GSA Professional Services Portal, & WIFCON
- ❖ Certified Commercial Contracts Manager
- ❖ Certified Federal Contracts Manager
- ❖ Certified Professional Contracts Manager

Overview

- ❖ The Operational Concept of Best Value
- ❖ Best Value within the Statutory Framework of Competition
- ❖ Best Value In The Context of SBIR Acquisitions
- ❖ Unique SBIR Streamlining & Flexibility

Best Value Definition

- ❖ **FAR 2.101** - The expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement.
- ❖ **Simplified Definition** – Optimal Outcome Given the Circumstances



Best Value Considerations



- ❖ Technical Excellence/Usefulness
- ❖ Cost/Price
- ❖ Relationship Tech/Price



- ❖ Degree of Required Competitive Rigor
- ❖ Terms & Conditions – (i.e. IP Rights)
- ❖ Compliance (e.g. systems and data)

Best Value = Tech/Price/TPR + PPI

Statutory Framework

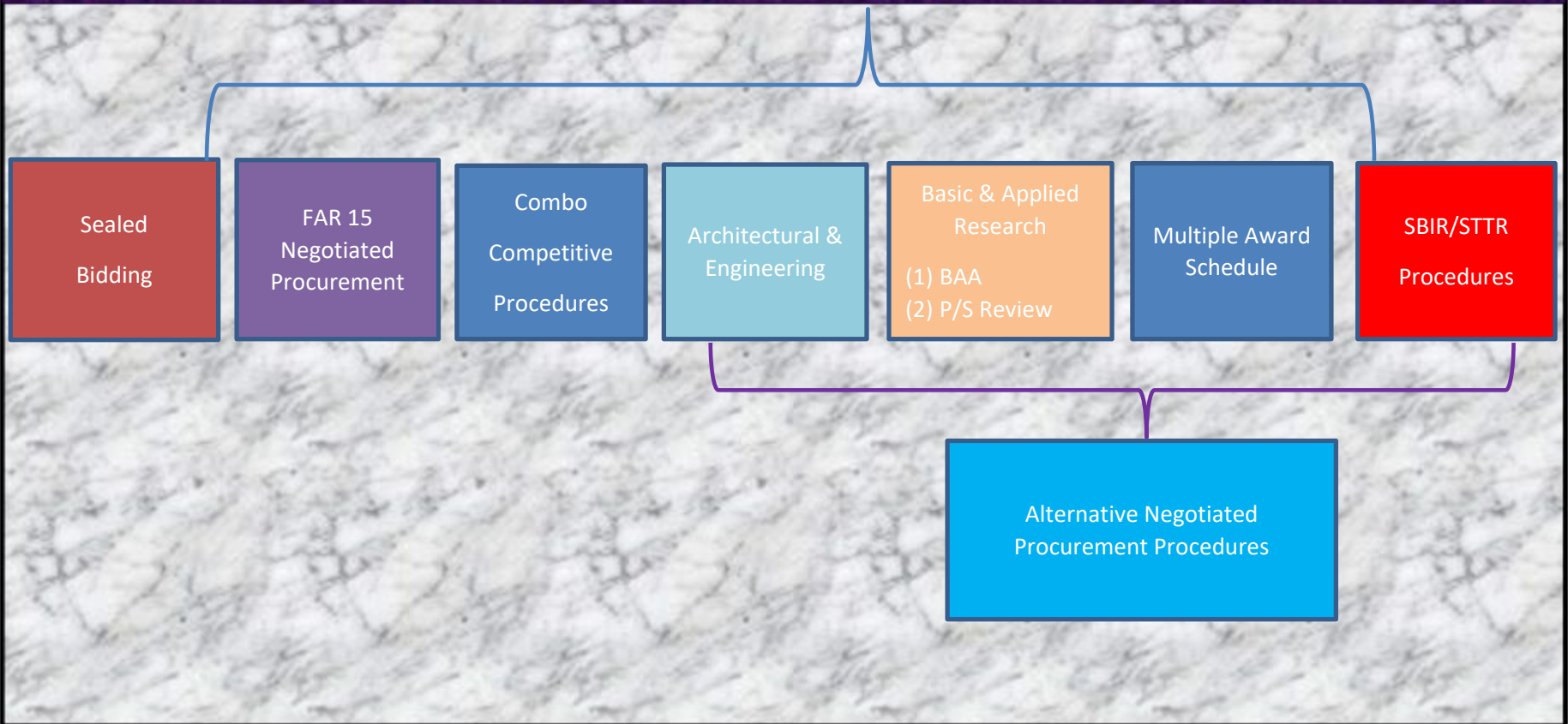
Full & Open Competition Via Authorized Competitive Procedures

[Military]

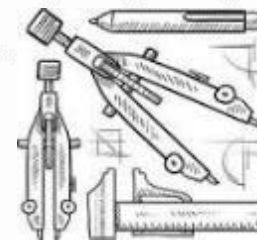
10 U.S.C. § 2304

[Civilian]

41 U.S.C. § 3301



Best Value-A&E



Government Motive: Highest Possible Quality. Price is a secondary concern.

Competitive Rigor Reduced –

- ❖ modified competitive range procedures
- ❖ no price technical tradeoff
- ❖ price negotiated differently



Best Value-GSA Schedule (CI)

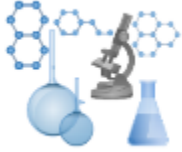


Government's Motive: Speed, Simplicity, Reduce Barriers to Entry, Enlarge Industrial Base, & Lower Acquisition Costs.

- ❖ **Competitive Rigor Reduced** – (1) flexible synopsis- solicitation duration (2) more flexible small business rules(3) simplified evaluation procedures (4) no requirement to let all possible schedule holders a chance to compete.

- ❖ **Terms & Conditions Reduced** – limited Government-specific requirements

- ❖ **Compliance Reduced** – (1) certified cost and pricing data not required (2) CAS not required (3) no post award audit rights and (4) no government-specific business system requirements

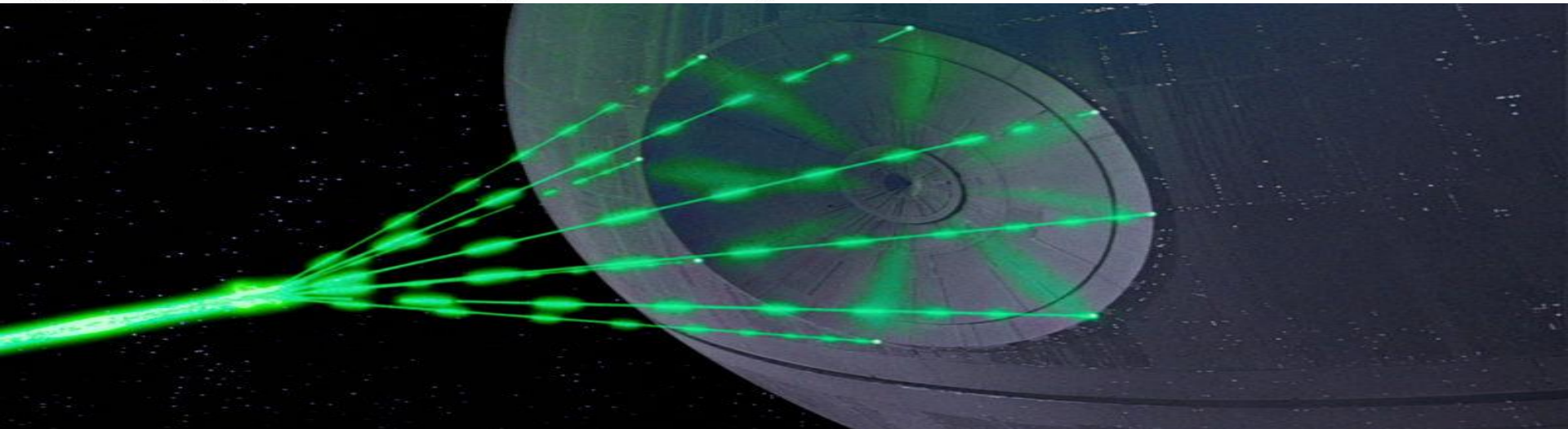


Best Value-SBIR/STTR



Government's Motive:

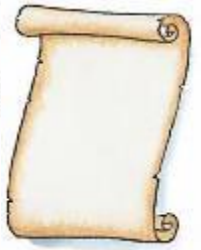
- ❖ Enlarge Technology Base
- ❖ Quickly Exploit Innovations
- ❖ Interstellar Domination



SBIR/STTR Competitive Rigor Reduced

- (i) No cost technical trade-off required
- (ii) Agency may negotiate solely with selectees if desired (See Spaltudaq Corp., B-400650)
- (iii) Agency may make an award to contractor that did not respond to its particular solicitation
- (iv) May make Direct Phase II awards
- (v) Competition and award in one phase satisfies all competitive requirements.
- (vi) Limited Protestability

SBIR Terms & Conditions



Fewer Burdensome T&Cs—

- ❖ Purposely Reduced By SBA Policy Directive(PD 5(e)(2)).
- ❖ GAO has held that in the absence of an express statutory provision that gives rise to an agency policy, the SBA PD controls. (GAO Case B-245032)

More Favorable T&Cs Than Other Acquisitions

- ❖ Modified IP rights. (8(b)(4))



SBIR Compliance Requirements Reduced

(1) SBA Policy Directive - Pricing Flexibility Encouraged

COs encouraged to work with SBIR/STTR companies by structuring remuneration as partial or deliverable payments (SBA PD 7(g)(1))

(2) More Flexibility Authorized By Statute

- ❖ Purchase Services From NTCs as Commercial Items (NDAA 2016 Sec. 857)
- ❖ Permits SBC and SBIR Contractor Awards, Subcontracts, and Modifications from CCPD up to \$7.5M and records examination (NDAA 2016 Sec. 873)
- ❖ Emphasized the Government's preference for performance based payments not based on costs (NDAA 2017 Sec. 873)

(3) Reduction or Elimination of Requirement For Government Specific Systems & Compliance

BPII Flexibilities That Drive Innovation

(i) Follow-on Phase II award w/o the need for a justification

(ii) May continue research via Phase II Enhancements

(iii) Require focus on technology transition into programs over \$100M

(iv) Create an easy bridge to non-SBIR funding via programs like RIF

(v) Unlimited Phase III Awards

Phase III Preference

(i) Authority – 15 U.S.C. 638 (r)(4)

(ii) What – Derives, Extends, or Completes

(iii) Who – Any company that owns active SBIR rights

(iv) Why – All Competition Requirements Met

(v) How – Authorized By Statute*

