



# PHASED ACQUISITION: AN INTERACTIVE TOOLKIT

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## INTRODUCTION

**WHY SHOULD YOU USE THIS TOOLKIT?** As USAID promotes reduced barriers to entry for new partners through streamlined procurement processes, the Acquisition and Assistance (A&A) workforce is utilizing more diverse acquisition processes including phased acquisitions. In addition to reducing barriers to entry, phased acquisitions can reduce the workload of individual procurements for USAID professionals and offerors responding to requests for proposals (RFPs).

The Phased Acquisition Toolkit complements and supplements the self-paced, asynchronous course, “PDT Innovators - Phased Acquisition: A New Source Selection Tool” and information provided in Procurement Executive Bulletin (PEB) No. 20-02 and the Advisory Phased Acquisition Supplement to PEB 20-02 on Advisory Phased Acquisition Processes by providing additional resources to support Contracting Officers (COs) and other US government professionals in understanding and utilizing phased acquisition options.



When contemplating a phased acquisition, especially a Mandatory Down Select Approach, COs are encouraged to contact the Acquisition and Assistance (A&A) Lab at [aalab@usaid.gov](mailto:aalab@usaid.gov) and/or the Contract Review Board (CRB) at [crbmailbox@usaid.gov](mailto:crbmailbox@usaid.gov) to review the use case and ensure that the mechanism chosen will support the accomplishment of the Technical Evaluation Committee (TEC) and COs goals for a particular procurement.

## I. WHEN TO USE A PHASED ACQUISITION

Phased acquisitions are used when USAID anticipates a large competition for a specific procurement and wishes to reduce the number of offerors for evaluation. USAID uses the terms “phased acquisition” and “down select” synonymously to describe any process in which the government hopes to reduce the number of offerors for evaluation.

### SHOULD I USE A PHASED ACQUISITION APPROACH?



**Consider a Phased Acquisition Approach** if you check one or more:

- Expect a large number of proposals will be submitted by offerors,
- Want to encourage new offerors to participate,
- Have good Phase One evaluation factors, and/or
- Believe that the RFP structure of Section C (Statement of Work), Section L (Instructions to Offerors), and Section M (Evaluation Factors) will reduce the number of offerors to a manageable amount.



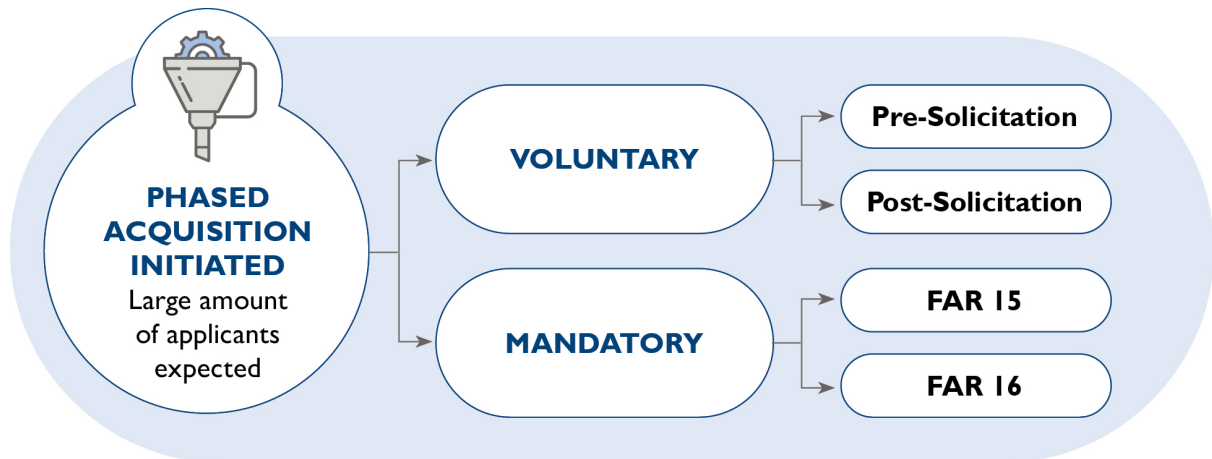
**DO NOT consider a Phased Acquisition Approach** if you check one or more:

- Know with confidence that you will receive a limited number of offers,
- Cannot identify an important factor that can be used as the basis for a recommendation to proceed or not to proceed with a full proposal, and/or
- Confirm that all evaluation factors would need to be evaluated at both the initial and full proposal stages.

## 2. OVERVIEW OF PHASED ACQUISITION TYPES AND HOW TO IMPLEMENT EACH TYPE

### PHASED ACQUISITION OVERVIEW

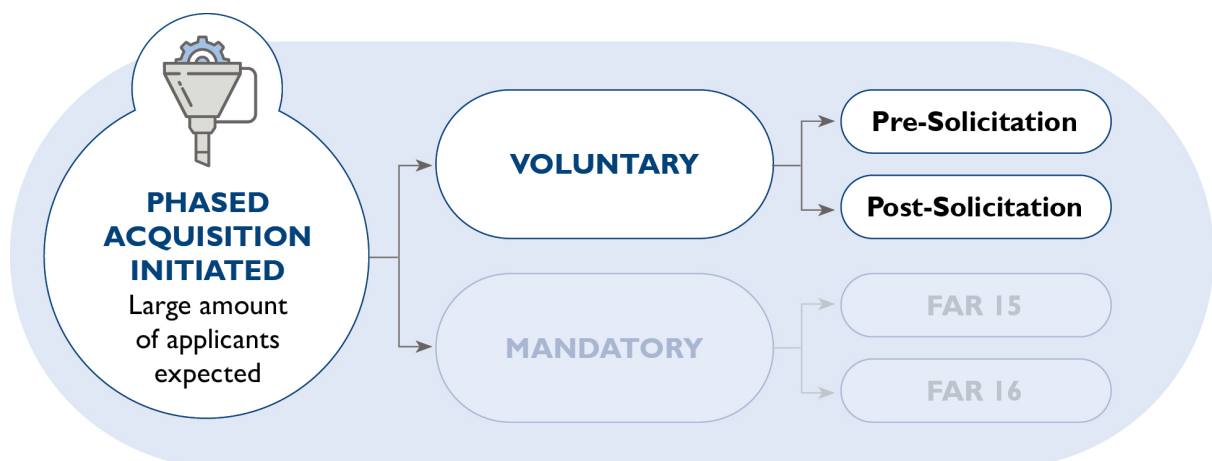
Once you have determined that a phased acquisition will support the goals for a particular procurement, you must determine which **type** of phased acquisition to use.



### PHASED ACQUISITION OVERVIEW: VOLUNTARY

The voluntary down select approach enables the government to recommend that an offeror not proceed to the next phase of a proposal submission. Offerors always have the option to proceed to the next phase of a proposal submission despite a government recommendation not to proceed.

Voluntary down selects can be used during the pre-solicitation or post-solicitation process.



### THE PRE-SOLICITATION APPROACH

The pre-solicitation or advisory multi-step process approach – as defined in [FAR 15.202: Advisory Multi-Step Process](#) – is designed to help the government and potential offerors reach an informed decision and avoid the preparation and evaluation of proposals that are not competitive. In this process, the government issues a pre-solicitation notice inviting offerors to submit information used to establish whether an offeror is a viable competitor. Using a pre-solicitation approach is very

similar to a “concept paper” phase for assistance. This approach provides potential offerors with the opportunity to assess whether to further invest resources into developing a proposal. This approach should be used only when the government anticipates a large competition in response to an RFP.

To determine viability, COs may request any type of information that will be meaningful to activity implementation. Examples include, but are not limited to, information regarding the proposed technical approach, targeted statements of capabilities, and questions related to qualifications.

FAR 15.202 prohibits requesting and evaluating the same information in the pre-solicitation and in the subsequent RFP. As a result, COs should review this content carefully to ensure that the information requested is a true indicator of the likelihood of successful contract performance.

If the government cannot identify an important factor that can be used as the basis for a recommendation to proceed or not to proceed to the next proposal phase or if the factor would need to be evaluated at both the initial and subsequent proposal phases, the pre-solicitation approach should not be used.

## PRE-SOLICITATION ADVANTAGES & DISADVANTAGES



### Advantages

- ✓ Encourages new partners to participate in procurements as they can better assess the viability of their proposal prior to investing resources in preparing a full proposal.
- ✓ The initial submission is more straightforward and less burdensome.
- ✓ New entrants may avoid incidence of non-compliance in response to a full RFP.
- ✓ May reduce the number of non-competitive full proposals received in response to the subsequent RFP.
- ✓ Process may lead to better information and refinement of the final RFP, which can potentially result in stronger proposals from offerors.
- ✓ Increasing the partner base may lead to more innovative and varied solutions.
- ✓ Allows the government to assess industry’s capabilities when considering new methods, solutions, or technologies.






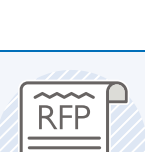
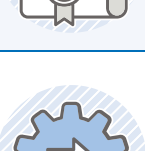


### Disadvantages

- ✗ Because it adds an additional step for the pre-solicitation information review, this can increase the amount of time for the overall procurement.
- ✗ It also may add to the effort on the part of the government in the review of the initial information.
- ✗ There is no guarantee that the process will result in fewer or better proposals in response to the RFP.

## THE PRE-SOLICITATION APPROACH PROCESS

PEB 20-02 provides a detailed, step-by-step process for Pre-Solicitation Voluntary Down Selects which is summarized below.

	STEPS	DETAILS
	<b>Step 1:</b> <b>Issue a Pre-Solicitation Notice</b>	The CO issues a pre-solicitation notice, outlining the documentation to be submitted and the criteria that will be used to conduct the initial evaluation.
	<b>Step 2:</b> <b>Offerors Respond to Pre-Solicitation Notice</b>	Offerors submit the required information, as outlined in the pre-solicitation notice.
	<b>Step 3:</b> <b>TEC Reviews Offerors Submissions</b>	The Technical Evaluation Committee convenes to evaluate all submissions in accordance with published criteria.
	<b>Step 4:</b> <b>TEC Documents Initial Evaluation</b>	The TEC documents the initial evaluation and provides it to the CO. The initial evaluation determines whether a respondent is considered a viable competitor.
	<b>Step 5:</b> <b>CO Notifies Offerors of Recommendations from Evaluation</b>	Based on the initial evaluation, the CO then notifies each respondent, in writing, whether they are recommended to participate in the RFP process. Those that are not recommended to participate must be provided the general basis for the determination.
	<b>Step 6:</b> <b>CO Issues the RFP</b>	The CO issues the RFP, and any firm, including offerors advised that they are not likely to be a viable competitor, or entities that did not respond to the initial notice, may participate.
	<b>Step 7:</b> <b>The RFP Process Moves Forward</b>	When the RFP is issued the respondents then make a business decision as to whether they want to submit a full proposal based on the previous notification from the CO about whether they are a “viable competitor”.

## THE POST-SOLICITATION APPROACH

The post-solicitation approach is when a phased approach is written into the RFP. It should be used when the government anticipates that a large number of offerors will submit proposals, and/or the

government wants to lower the barriers to entry for offerors. This approach is still an opportunity to recommend whether offerors should proceed to the next phase of the proposal process and offerors may still decide to proceed to the next submission phase despite a recommendation not to continue to the next phase. Participation in the initial phase of the proposal is mandatory for all offerors. This approach is not specifically addressed in the FAR; therefore, COs have flexibility in how to use this approach. Sample language, guidance, and best practices can be found in PEB 20-02.

The post-solicitation approach should not be used for awards of great complexity and risk where technical approach, cost factors, and capability must be assessed together to make a prudent determination of an offeror's viability.

## POST-SOLICITATION ADVANTAGES & DISADVANTAGES



### Advantages

- ✓ Encourages new partners to participate in procurements as they may better assess the viability of their proposal prior to investing resources in preparing a full proposal.
- ✓ New entrants may avoid incidence of non-compliance in response to a full RFP.
- ✓ May reduce the number of non-competitive full proposals received in the second phase of the proposal, and therefore, reduce workload for the government.
- ✓ Increasing the partner base may lead to more innovative and varied solutions.
- ✓ Allows the government to assess industry's capabilities when considering new methods, solutions, or technologies.



### Disadvantages

- ✗ Like the pre-solicitation approach, may not reduce the number of offerors.
- ✗ Challenge to strongly manage the timeline and/or coordination.

## THE POST-SOLICITATION APPROACH PROCESS

PEB 20-02 provides guidance for the Post-Solicitation Voluntary Down Select Process. While the FAR does not define nor prescribe a post-solicitation process for down-selecting offerors, this approach is consistent with federal procurement law.



## STEPS

## DETAILS



### Step 1: The Solicitation

- The RFP should tie both Phase One and Phase Two to a best value determination, preferably with elements of Phase One being as important, if not more important, than Phase Two evaluation criteria.
- The RFP must state when cost or price will be evaluated.
- Ensure there is enough time (45-60 days is recommended) between Phase One notifications to offerors and the due date for Phase Two submissions.
- Do not overcomplicate the process.
- Socialize the TEC and offerors to the process.






### Step 2: Phase One Evaluation

- Phase One submission requirements should be minimal to allow for broad participation and low investment, but meaningful enough that an offeror can adequately demonstrate aspects of their capabilities, approach, or understanding of the requirements.
- FAR 15.202 prohibits requesting and evaluating the same information in Phases One and Two. COs should ensure that the Phase One information to be reviewed is a true indicator of the likelihood of future successful contract performance.
- The TEC evaluates all responses in accordance with the RFP criteria.



### Step 3: Phase I Notifications

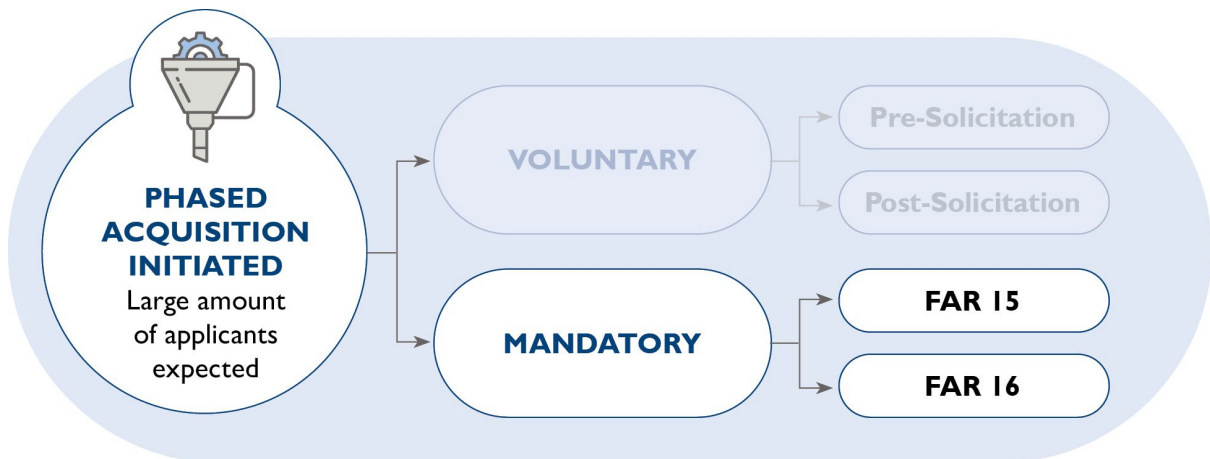
- CO advises each offeror that either (1) it is a viable competitor and invited to participate in the next phase; or (2) based on the information it has already submitted, it is unlikely to be a viable competitor and the Government advises it not to participate in the next phase.
- Notices must include the associated deadline for submitting Phase Two submission requirements, in accordance with the RFP.
- Notices must not restrict any offeror from participating in the next phase.
- Offerors who respond to Phase One are not provided feedback on their submissions at this point in the evaluation.
- Offerors that withdraw from the competition are not entitled to an unsuccessful notice or debriefing and are presumed to lack standing to protest the Agency's evaluation.

 <p><b>Step 4:</b> <b>Phase 2 Proposal Receipt</b></p>	<ul style="list-style-type: none"> <li>• Ensure offerors are given enough time between notification of competitive viability at the end of Phase One and the deadline for a Phase Two submission (45-60 days is recommended).</li> <li>• Offerors submit the additional proposal information in response to Phase Two.</li> </ul>
 <p><b>Step 5:</b> <b>Phase 2 Evaluation</b></p>	<ul style="list-style-type: none"> <li>• Be certain to use Phase Two evaluation criteria as presented in the RFP.</li> <li>• The government makes an award decision and enters into discussions and/or the typical award process with the remaining offerors.</li> <li>• If the CO determines that it is necessary to conduct discussions, they must follow the procedures outlined in FAR 15.306, as applicable.</li> </ul>
 <p><b>Step 6:</b> <b>Final Notifications</b></p>	<ul style="list-style-type: none"> <li>• Notifications for Phase Two participants are done the typical way any regular award process would occur.</li> <li>• Only Phase Two participants may receive an official debrief, but only if they request one in a timely manner.</li> <li>• Feedback to Phase One participants is optional and completely at the discretion of the CO.</li> <li>• If the CO opts to provide feedback to Phase One participants that opted not to submit a Phase Two proposal, the CO should provide feedback at the same time feedback is provided to other offerors or later.</li> </ul>

## PHASED ACQUISITION OVERVIEW: MANDATORY

The Mandatory Down Select Approach utilizes clearly stated and defined evaluation criteria to eliminate some offerors from competition at the conclusion of Phase One. Like the Voluntary Down Select Approach, the Mandatory Down Select is a phased process that should reduce the number of offerors. Additionally, a Mandatory Down Select Approach may reduce procurement action lead time (PALT). Phase One of the mandatory down select approach represents a “must have standard” that is often not looked at in Phase Two.

The Mandatory Down Select approach can be used under FAR 15: Contracting by Negotiation or FAR 16: Types of Contracts rules. Due to its inherently riskier nature, when contemplating a Mandatory Down Select Approach, **contact the A&A Lab at [aalab@usaid.gov](mailto:aalab@usaid.gov) or the Contract Review Board (CRB) at [crbmailbox@usaid.gov](mailto:crbmailbox@usaid.gov) to review the proposed use case.**



### MANDATORY DOWN SELECT UNDER FAR 15: CONTRACTING BY NEGOTIATION

When using a Mandatory Down Select under FAR 15, Phase One must include a “meaningful review of costs” before eliminating a competitor. “Meaningful review” generally considers cost analysis, price analysis, cost realism or a combination of the three – whichever may be more appropriate to the current effort. Therefore, it is important to remember that under FAR 15 rules, the mandatory down select approach must incorporate some form of cost analysis into Phase One.

Under FAR 15, the mandatory down select approach has a more limited use case, no precedent in GAO case law, and should only be considered after consultations with the A&A Lab or the Contract Review Board (CRB).

### THE MANDATORY DOWN SELECT UNDER FAR 15 PROCESS

With a Mandatory Down Select, offerors must meet the established standard in Phase One to move on to Phase Two. It is critical that the down select, rating, and cost analysis processes be clearly described in the RFP and that the process outlined in the RFP is followed. Avoid adjustments to Phase One submission requirements, although a competitive range is allowed after Phase Two.

Although other elements of a typical process are used, note the following for a mandatory down select under FAR 15:

- COs generally use a Technically Preferred determination. A Technically Preferred determination allows the CO to select the best proposals and utilize initial critical criteria only.
- A line can be drawn between successful offerors and those that are not successful based on rating or ranking.
- Both a justification of the technical criteria and a meaningful cost realism analysis is required in Phase One.
- The RFP must be very clear about the process used for ranking or rating offerors.

### MANDATORY DOWN SELECT UNDER FAR 16: TYPES OF CONTRACTS RULES

The mandatory down select approach under FAR 16 is typically used under **Task Orders**. Specifically, in accordance with FAR Part 16.505(b)(ii) Ordering Under Multiple-award Contracts, “The contracting officer may exercise broad discretion in developing appropriate order placement procedures. The contracting officer should keep submission requirements to a minimum. Contracting officers may use streamlined procedures...”

Under FAR 16, there is an abundance of GAO case law precedents which guide how the process can work.

### THE MANDATORY DOWN SELECT UNDER FAR 16 PROCESS

With a Mandatory Down Select, offerors must meet the established standard in Phase One to move on to Phase Two. It is critical that the down select, rating, and cost analysis processes be clearly described in the RFP and that the process outlined in the RFP is followed. Avoid adjustments to Phase One submission requirements, although a competitive range is allowed after Phase Two.

Although other elements of a typical process are used, note the following for a mandatory down select under FAR 16:

- COs generally use the Go, No-Go determination i.e., an offeror must meet the standard, or they will be rejected.
- The Go, No Go approach uses the highest level of programmatic technical justification and requires a clear, quantifiable, and justifiable criteria that can be argued in court as being critical to the success of the program.
- A full cost proposal is not required for Phase One under FAR 16.

### DOWN-SELECT DIFFERENCES AND SIMILARITIES: VOLUNTARY VS. MANDATORY

VOLUNTARY	vs.	MANDATORY
Easier	<i>Ease Of Process</i>	Harder
Two-step	<i># of Steps</i>	Two-step
Carries important weight into Phase Two	<i>Phase 1</i>	Represents “a must have standard” but is often not looked at in Phase Two
Cost analysis and realism is not until Phase Two	<i>Cost</i>	If using FAR 15, cost realism <b>must</b> be a part of Phase One
Technically none for Post Solicitation Approach	<i>Case Law Precedent</i>	No case law precedents under FAR 15; precedents exist for FAR 16
Should reduce number of offerors but <b>will not</b> reduce PALT	<i>PALT</i>	Should reduce number of offerors and <b>may</b> reduce PALT (with compromises)
Offerors voluntarily remove themselves from competition	<i>Offerors</i>	USAID determines which offerors move on to Phase Two

### **3. POWERPOINT TOOLS FOR CONTRACTING OFFICERS TO EXPLAIN PHASED ACQUISITIONS TO POTENTIAL BIDDERS AND TECHNICAL EVALUATION COMMITTEE MEMBERS**

These PowerPoint (PPT) tools allow COs to select specific PPT slides to construct a PPT deck that can be used to support a Bidders Conference or a TEC Briefing. The PPT slides and deck must be customized to reflect the specific RFP/RFTOP and circumstances surrounding the procurement.

### **4. ADDITIONAL RESOURCES**

This Toolkit includes a variety of resources for Contracting Officers to support their efforts to use phased acquisitions. All tools should be customized to the requirements of the specific phased acquisition RFP/RFTOP. Available resources include:

- Procurement Executive's Bulletin (PEB) No. 20-02
- Advisory Phased Acquisition Supplement to Procurement Executive's Bulletin on Advisory Phased Acquisition Processes
- Sample Notification Letters for Contracting Officers