



8(a) STARS II Ordering Guide

GSA Federal Acquisition Service
Office of Integrated Technology Services
Small Business Governmentwide
Acquisition Center

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It is recommended that the reader become familiar with the 8(a) STARS II GWAC Contract and the entire ordering guide. This ordering guide contains Ordering Contracting Officer (OCO) plus various appendices. These guidelines may be revised to update the process of awarding and managing orders. Updates to this publication, when they occur, will be available on the web www.gsa.gov/8astars2. Questions concerning this guide should be directed to an 8(a) STARS II GWAC PCO identified in Appendix II.

This Ordering Guide is intended to help ordering agencies effectively use STARS II to deliver best value. Additional information available to assist ordering agencies in using STARS II is available online at <http://www.gsa.gov/8astars2>; this site includes a copy of the basic contract, basic contract modifications, and the industry partner listing.

Introduction

The 8(a) STARS II GWAC (STARS II) is a competitively awarded, multiple-award, indefinite-delivery, indefinite-quantity contract for requirements associated with four North American Industrial Classification System (NAICS) codes:

NAICS 541511	Custom Computer Programming Services
NAICS 541512	Computer Systems Design Services
NAICS 541513	Computer Facilities Management Services
NAICS 541519	Other Computer Related Services

STARS II was authorized under the provisions of Section 8(a) of the Small Business Act 15 U.S.C. 637(a) and retains the 8(a) sole source, a/k/a/ “directed order”, authority found in Federal Acquisition Regulation (FAR) 19.8. STARS II resulted from a competitive 8(a) procurement, which was offered to and accepted into the SBA 8(a) program; therefore order requirements do not require an additional offer and acceptance from SBA per 19.804-6(a).

STARS II enables federal agencies to fulfill mission requirements and, at the same time, assists in meeting or exceeding socioeconomic goals through the utilization of businesses which were certified 8(a) eligible by the Small Business Administration (SBA). Federal agencies may earn 8(a) credit and other applicable socioeconomic procurement preference credits¹ that each industry partner possesses. These socioeconomic designations are indicated on the STARS II industry partner list on the STARS II website, www.gsa.gov/8astars2.

STARS II is a ten-year contract, consisting of one five-year base and one five-year option period, affording the opportunity for industry partners to develop and create *sustainable businesses*. STARS II has a maximum contract life cycle value of \$10B.

¹ Agencies may earn socioeconomic credit provided the industry partner remains a small business concern on the STARS II GWAC.

Scope

STARS II is intended to support federal agency Information Technology (IT) requirements. The *geographical scope* of coverage is worldwide and *organizational scope* of coverage includes those entities authorized in GSA Order ADM 4800.2G (see Appendix IV). The current definition of IT can be found at Federal Acquisition Regulation, FAR, 2.101, <http://acquisition.gov/far/index.html>.

In the context of STARS II, IT encompasses requirements having a principal purpose/core work grounded in one of the four NAICS codes, from the 2007 NAICS, tied to the STARS II scope. Therefore, it is beneficial to be familiar with the NAICS code definitions and guidance² on selecting a primary NAICS code for procurement. It is also beneficial to be familiar with the NAICS code system itself, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2007>

STARS II's scope generally provides flexibility at the order level to include ancillary services and/or equipment that the government determines to be integral and necessary to the IT services-based solution. STARS II's scope is agile and will automatically keep pace as IT evolves within a STARS II NAICS code's parameters.

Each functional area (FA) is tied to a NAICS code:

- NAICS 541511 is FA 1
- NAICS 541512 is FA 2
- NAICS 541513 is FA 3
- NAICS 541519 is FA 4

There is a different population, or "pool", of industry partners in each FA. In planning for and determining that an order is a good fit for STARS II, the analysis should span the prospective order's full life cycle potential. In addition to FAs, STARS II includes two Constellations or "tiers". Constellation One (I) industry partners were determined to be technically proficient with competitive pricing, while Constellation Two (II) industry partners were determined to be technically proficient with competitive pricing, and also possessed a minimum of one specified industry credential identified below:

1. Capabilities Maturity Model Integration (CMMI) Level II or above, in Services or Development, or
2. International Standards Organization (ISO) 9001:2000, or
3. ISO 9001:2008

To select the applicable Constellation for each order opportunity, the following guidance is provided:

If the government determines that there is a clear need or perceived benefit to the government expected from one of the specified industry credentials, the opportunity belongs in Constellation II, otherwise the opportunity belongs in Constellation I.

The OCO will select the applicable Constellation and Functional Area for each order opportunity during acquisition planning. The following table shows the Constellations and FAs.

	Functional Area 1	Functional Area 2	Functional Area 3	Functional Area 4
Constellation II	541511	541512	541513	541519
Constellation I	541511	541512	541513	541519

² FAR 19.102(c-d)

Ordering from STARS II

Access to the STARS II GWAC

Orders are awarded by warranted OCOs who have received a written Delegation of Procurement Authority (DPA) issued by a STARS II PCO, making them OCOs. OCOs who support their own agency are involved in direct acquisitions, while those who support other agencies are engaged in assisted acquisitions.

A memo from the Office of Management and Budget dated June 6, 2008, titled "Improving the Management and Use of Interagency Acquisitions" addresses these subjects, and establishes that **using a GWAC, such as STARS II, is presumed to be in the government's best interest.**

1. **Direct Acquisitions.** Under this scenario, the customer agency is responsible for its own acquisition and program management activities.
2. **Assisted Acquisitions.** In this scenario an agency may elect to have an assisted acquisition organization provide full or partial acquisition program and/or project management services through the order life cycle. The scope and terms of the assisted acquisition support are directly arranged by the customer agency with the assisted acquisition organization agency, which in turn will support the customer's STARS II requirements with a OCO holding a STARS II DPA.

Note: OCOs should follow agency policy regarding any additional justification required such as why the contract vehicle is best suited for the acquisition and the cost effectiveness of the acquisition

Delegation of Procurement Authority (DPA)

Federal contracting officers who wish to use STARS II must receive a STARS II overview training and DPA. This training provides an overview of the STARS II key features, establishes a clear set of roles and responsibilities between the STARS II PCO and the OCO, orients the prospective OCO to the contract, and opens the two-way dialogue between the future OCO and the GWAC PCO. Completion of this overview training will lead to a written GSA - issued DPA which authorizes the warranted CO to become an OCO...

The DPA process recognizes a necessary and useful division of labor between the STARS II PCO and OCO. The DPA serves to establish clear roles and responsibilities, foster open communications and promote beneficial contract use. The DPA delineates between those OCO responsibilities derived from the OCOs warrant and those originating in the DPA itself.

It is a best practice for a DPA to be in place before a STARS II opportunity is competed (in the case of competitive order opportunities) or negotiated (in the case of directed order opportunities). A DPA is required **prior** to awarding and for administering Orders. While a DPA can only be granted to warranted federal contracting officers, all individuals on the acquisition team are encouraged to participate in DPA training.

No work may be performed, no debt or obligation accrued, and no payment may be made, except as authorized by a bona-fide written order signed by a duly warranted federal contracting officer with status as a STARS II OCO. While failure to follow the DPA requirement is not a violation of law or regulation, it unnecessarily increases procurement risk (e.g. training provides quality assurance and promotes consistency).

There are various ways to receive STARS II DPA training: 1) through a self-paced on-line course; 2) via conference call; 3) through on-site training for large groups; 4) webinar; 5) video teleconference; or 6) by reviewing and understanding the STARS II Ordering Guide.

1. On-Line DPA Training- Coming Soon

2. Conference Call DPA Training

To start the process of obtaining conference call training, each federal contracting officer wanting a DPA must submit the following information to the Small Business GWAC Center's S2@gsa.gov inbox, or fax it to (816) 823-1608 (please place "STARS II DPA" in the subject line).

- Agency name, bureau/command name (if any), individual(s) full name, street address, e-mail address, phone number and fax
- Names of other individuals who may be participating in the contract overview training but not seeking a DPA. *We encourage all members of the procurement team to participate in the contract orientation.*
- After receipt of this information, a STARS II PCO will contact the requestor(s) to set up the contract orientation.

This contract orientation will take approximately 1 hour provided the caller has internet access. It is sometimes possible for a DPA to be granted the same day as the training, although typical cycle time is two business days.

3. On-Site DPA Training for Large Groups
Please contact the Small Business GWAC Center for details at (877) 327-8732.
4. Webinar DPA Training
Please contact the Small Business GWAC Center for details at (877) 327-8732.
5. Video Teleconference DPA Training
Please contact the Small Business GWAC Center for details at (877) 327-8732.
6. Review of the STARS II Ordering Guide DPA Training
A thorough review and understanding of the STARS II ordering guide will also satisfy the training requirement. A current copy of the STARS II Ordering Guide can be found at <http://www.gsa.gov/8astars2>. Since the STARS II Ordering Guide is subject to change, please check back periodically for updates.

Requesting a DPA through the GSA STARS II Website after Completing DPA Training

To request a DPA from the GSA STARS II website, please visit the Delegation of Procurement Authority section of the website found at <http://www.gsa.gov/8astars2>. To initiate the request, complete and submit the DPA Request Form. A representative from the Small Business GWAC Center will typically respond within 24 hours of the request.

DPA Portability

DPAs do not transfer with an OCO. Should an OCO transfer agencies or offices within an agency, that OCO should request a new DPA be issued from the Small Business GWAC Center. However, OCOs do not need to retake DPA training to receive a new DPA.

Order Types

Authorized order types³ available under this GWAC are:

- Fixed-Price Family (FAR 16.2)
- Time & Materials (FAR 16.6)
- Labor-Hour (FAR 16.6)
- Hybrid blends
- Incentives (FAR 16.4)

Time & Materials and Labor Hour

If not using a Fixed-Price order type, FAR 16.601(d)⁴, 12.207(b)(i)(C) and 12.207(b)(ii) require contracting officers to prepare a determination and findings that no other contract type is suitable.

Hybrid blends

Some Orders may have work containing a combination of contract types, i.e., Fixed-Price, Time & Materials and Labor-Hour. The OCO is responsible for identifying the applicable order type(s), and making the order terms clear within the RFQ or RFP and resulting order.

Incentives

The OCO must evaluate and determine the appropriateness of all incentive terms and develop a surveillance plan to implement and monitor an Award-Fee, Incentive-Fee, or Award-Term in accordance with FAR 15.4 and FAR 16.4.

³ See FAR 16.104 for factors in selecting contract types.

⁴ FAR 16.601(d) determination and findings require a higher level of review. Please check agency guidance for the required level of review and approval.

Order Process

Once a DPA is granted, the OCO follows their internal process for planning and funding the requirement, gaining any necessary approvals and documenting the order. The OCO is responsible for acquisition planning and conducting due diligence as directed by FAR and agency policy and regulation. The process of order award can be configured to agency needs, provided it is consistent with the STARS II GWAC, customer agency policy and the FAR.

The order process may be represented in seven steps that represent a logical procurement sequence. FAR 16.505 is foundational to the overall order process, so is recommended reading.

Step 1	Plan the acquisition
Step 2	Define & document requirements
Step 3	Consider scope compatibility review
Step 4	Follow competitive or directed process, as applicable
Step 5	Evaluate quotes or proposals (competed) or offer (directed)
Step 6	Document decision and manage award processes
Step 7	Administer order

Step 1: Plan the Acquisition

Per FAR 16.505(a)(7), Orders are **not** exempt from the development of acquisition plans in accordance with FAR 7 and FAR 39. Additional considerations include:

- a) The competition requirements in FAR 6 and the policies in FAR 15.3 do not apply to the ordering process – FAR 19.8 and 16.505 do apply.
- b) The total estimated life cycle value of a procurement, including options, should be considered in developing an acquisition strategy.
- c) Orders shall not be split to avoid threshold limitations.
- d) Order modifications must stay within scope of the STARS II contract and the order.
- e) The additional step of offering the opportunity to the SBA for its acceptance into the 8(a) program is not required pursuant to FAR 19.804-6(a).
- f) A memo from the Office of Management and Budget dated June 6, 2008, titled “Improving the Management and Use of Interagency Acquisitions⁵” addresses these subjects, and establishes that using a GWAC, such as STARS II, is presumed to be in

⁵ http://www.whitehouse.gov/sites/default/files/omb/assets/omb/procurement/interagency_acq/iac_revised.pdf

the government's best interest.

- g) The Director, Defense Procurement and Acquisition Policy issued a memorandum dated July 14, 2011⁶, identifying STARS II as a contract to be considered by DoD organizations during market research in support of maximizing small business prime contracting opportunities.
- h) In a July 29, 2009, memorandum⁷ from the Office of Management and Budget, the Director cited that Agencies should not count as high risk those acquisitions made noncompetitively pursuant to a statute, including sole source awards made under the small business development 8(a) program.
- i) GSA acquisition activities using a time and materials and/or labor hour contract type are strongly encouraged to read [Acquisition Letter MV-11-05, Supplement 01](#) (an intranet link only) regarding acquisition plans.

Step 2: Define & Document Requirements

Investing sufficient time and effort up front to write clear, high-quality, requirements provides the government a baseline for the development of other parts of the solicitation, particularly the evaluation criteria and technical proposal instructions. Clearly defined requirements facilitate a more accurate independent government estimate and more accurate budgeting. For industry, clear requirements in requests for quotations (RFQ) or requests for proposals (RFP) facilitates industry to more readily understand the agency requirement and needs, equipping it to provide more accurate pricing and higher quality technical proposals. Potential post award benefits include minimizing the need for change orders, better assessment criteria for measuring industry partner performance, and reducing claims and disputes.

Agencies are encouraged to use Performance-Based Service Acquisition (PBSA) to the maximum extent practicable. Additional considerations include:

Developing Order Solicitations

A solicitation may be in the form of a RFP or RFQ (while a RFQ is not formally a solicitation, for simplicity, it is referred to as such in this writing). It must include a work statement, evaluation factors, contract type, period and place of performance, closing date, applicable proposal instructions, and other information (e.g., agency specific clauses) applicable to the work effort. Additional considerations include:

- a) If not using the Fixed-Price order type, FAR 16.601(d) requires contracting officers to document the rationale which applies to the selected order contract type(s) under STARS II. The determination and findings required by FAR 16.601(d) requires a higher level of review. Please check agency guidance for the required level of review and approval.
- b) Some orders may have work containing a combination of contract types, i.e., Fixed-Price, Time & Materials and Labor-Hour. The OCO is responsible for identifying the applicable order type(s), and making the order terms clear, which should be stated in the RFQ or RFP and resulting order.
- c) Defense acquisition activities and assisted services organization supporting DOD are strongly encouraged to read the entirety of the DOD, Acquisition Technology and Logistics (ATL), memorandum entitled, ["Improving Competition in Defense Procurements –](#)

⁶ <http://www.acq.osd.mil/dpap/cpic/cp/docs/smallbusinessmemo-20110715.pdf>

⁷ http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_fy2009/m-09-25.pdf

[Amplifying Guidance](#), dated 24 NOV 2010⁸, and its companion, “Improving Competition in Defense Procurements” dated 27 APR 2010⁹

- d) The RFP will include evaluation factors tailored to the specific requirement. Cost or price must be an evaluation factor for all orders. contract line number (CLIN) item structure should follow suit with the order contract type(s) selected and the attendance government surveillance considerations associated with each contract type.
- e) Clear direction should be provided in RFQs and RFPs in terms of the type and level of pricing detail expected in quotes and proposals.
- f) Evaluation factors other than price should be limited to those few that are meaningful discriminators among competing offers on which a selection may be based. As previously mentioned, it is a best practice to ensure that requirements are as specific and clearly defined as possible, commensurate with the applied order type(s). A well-defined work statement facilitates a better understanding of the requirement by a greater number of prospective offerors. This will promote enhanced competition as well as increased use of fixed-price contracts, the preferred contract type.
- g) Clear quotation and proposal preparation instructions help keep required submissions to a minimum.

Geographic Locality Considerations

Because STARS II has 34 price localities, and prices for labor categories at government and Contractor sites for each locality *applicable to time and materials and labor hour contract types*, OCOs need to make a conscious planned choice on the locality ground rules they require contractors to quote or propose upon for Established Labor Categories (those already priced in STARS II) when working with the time and materials and/or labor hour contract types.

Place of Performance Scenario	Pricing Pathway for Established Labor Categories
Single Place of Performance at the government Site – or Multiple Places of Performance at government sites in the same Locality	<ul style="list-style-type: none"> • Government requires Locality specific prices, and • Ceiling prices are shown next to quoted or proposed prices for comparison
Multiple Places of Performance at government Sites in various Localities	<ul style="list-style-type: none"> • Government requires Locality specific prices OR blended rates reflecting the proportion of support in the various localities, and • Ceiling prices are shown next to quoted or proposed prices for comparison
Performance not required at a government Site	<ul style="list-style-type: none"> • Government requires that quotes or proposals indicate from where the contractor will service the requirements, and • Ceiling prices are shown next to quoted or proposed prices for comparison

⁸ <http://www.acq.osd.mil/dpap/policy/policyvault/USA002080-11-DPAP.pdf>

⁹ <http://www.acq.osd.mil/dpap/policy/policyvault/USA006629-10-DPAP.pdf>

Provision and Clause Configuration

STARS II was established with commercial terms and conditions. Additional FAR provisions and clauses that do not conflict with the basic contract may be added at the order level. If the OCO intends to implement non-commercial terms and conditions, he/she should structure the order RFQ or RFP accordingly.

Provisions and clauses that supplement the FAR, which are prescribed and included in authorized agency acquisition regulations, may be added at the order level so long as they are not inconsistent with the basic contract. Refer to FAR 52.101 (b)(2)(i)(A-C) for examples of provisions and clauses.

OCOs are responsible for clearly identifying the applicable provision and clause configuration in order solicitations.

The necessary provisions and clauses related to American Recovery and Reinvestment Act (ARRA) should be addressed by OCOs in order RFQs or RFPs and resulting orders.

Step 3: Scope Compatibility Reviews for Prospective Orders and Modifications

The Small Business GWAC Center offers OCOs an opportunity to utilize the no-cost, value-added service of scope compatibility review for the STARS II GWAC. This quality assurance measure has been made available for those who would like assistance in determining overall scope fit of a prospective requirement, or modification to an existing order, on the STARS II GWAC.

OCOs may request scope compatibility reviews (see Step 3) at any time during the acquisition process, and are encouraged to do so prior to competing order opportunities or entering into directed order negotiations.

To get started, a customer should review <http://www.gsa.gov/8astars2> "STARS II Scope Reviews" and do the following:

- a) Complete the Scope Compatibility Review Request Form available at www.gsa.gov/8astars2 "Scope Reviews"
- b) Email the completed form along with a copy of the work statement to sowreview@gsa.gov. Include email any specific questions that should be addressed by the Small Business GWAC Center,
- c) Place "SOW review for STARS II GWAC", or equivalent, in the subject line

Once the completed request form is received, the Small Business GWAC Center will review the received documents and provide a written determination on if the requirement is a good overall fit for STARS II. The OCO will still be required to complete acquisition planning, work with legal and technical advisors, if appropriate or required, conduct the procurement, perform due diligence, and document their process and evaluations.

Step 4: Directed Orders or Competitive Orders Subject to Fair Opportunity

The STARS II contracts were awarded using a competitive process resulting in multiple awards.

Directed Orders

STARS II allows for *directed orders* under the competitive threshold, currently \$4.0 million, per FAR 19.804-6 – and has the same, per order, ceiling on directed orders for all industry

partners. The rationale at FAR 19.804-2(a)10, (i) or (ii), is germane to directed orders. While some sole source contracting is flagged as “high risk”, that is not the case with 8(a) directed orders. In a July 29, 2009, memorandum from the Office of Management and Budget, the Director cited that Agencies should not count as high risk those acquisitions made noncompetitively pursuant to a statute, including sole source awards made under the small business development 8(a) program.

An OCO interested in competing a requirement under the competitive threshold should consult with a STARS II PCO to coordinate the necessary SBA waiver.

Competitive Orders Subject to Fair Opportunity

Since STARS II is a multiple-award, indefinite-delivery, indefinite- quantity contract, Fair Opportunity to be Considered¹⁰ must be given to all industry partners in the appropriate constellation and selected functional area for orders in excess of the competitive threshold, unless an exception applies.

In accordance with FAR 16.505, for task or delivery Orders in excess of **\$5,000,000**¹¹, the contracting agency’s obligation to provide “a fair opportunity to be considered” is not met unless all contractors in the selected Constellation and Functional Area are provided, at a minimum, the five item listed below. However, as a best practice, it is recommended that all Fair Opportunity requirements under STARS II be provide the following:

- 1) A notice of the order that includes a clear statement of the agency’s requirements
- 2) A reasonable period of time to provide a proposal in response to the notice
- 3) Disclosure of the significant factors and sub factors, including cost or price, which the agency expects to consider in evaluating such proposals, and their relative importance
- 4) In the case of an award that is to be made on a best-value basis, a written statement documenting the basis for the award and the relative importance of quality and price or cost factors
- 5) An opportunity for a post-award debriefing if timely requested

The method to provide for Fair Opportunity to be Considered is at the discretion of the OCO. The government may disseminate RFI/RFQ OR RFPs via e-mail, facsimile, GSA’s E-Buy at www.gsa.gov/ebuy, commercial mail carrier or other electronic means as prescribed by the OCO’s agency. Solicitation synopsis in FedBizOpps is not ordinarily required or recommended under indefinite- delivery contracts, but may be required for specialized appropriations.

The following pertains to ALL orders.

- STARS II industry partners’ past performance under STARS II orders may be considered to the extent that customer agencies have populated PPIRS. STARS II order numbers for a given industry partner may be ascertained by searching by the industry partner’s associated contract number in FPDS-NG, and also in www.ffata.org.
- The OCO may use oral presentations.

¹⁰ FAR 16.505(b) and DFARS Part 216.505-70

¹¹ Threshold established by National Defense Authorization Act of 2008

- The OCO may evaluate quotations and proposals without discussions, and if that is the intent, should make that a clear expectation in the order RFQ or RFP. If the OCO intends to award using a methodology that assumes discussions will be held, that should be clearly identified in the order RFQ or RFP.

Exceptions to Providing Fair Opportunity to be Considered (Fair Opportunity Exceptions)

The five Fair Opportunity Exceptions are found at FAR 16.505(b)(2)(i)(A-E), shown below (DoD customers refer to Defense Federal Acquisition Regulations Supplement (DFARS) Part 216.505-70).

- (A) The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.
- (B) Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.
- (C) The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.
- (D) It is necessary to place an order to satisfy a minimum guarantee.
- (E) For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source.

The 5th Fair Opportunity Exception, FAR 16.505(b)(2)(i)(E), shown immediately above, is applicable to STARS II directed orders.

Some acquisitions, though infrequent, may involve an OCO utilizing one or more of the first four Fair Opportunity Exceptions, FAR 16.505(b)(2)(i)(A-D). Advance OCO to PCO coordination is recommended prior to an OCO using any of the first four Fair Opportunity Exceptions. DFARS PGI provides useful context for understanding how these Fair Opportunity Exceptions might be applied - http://www.acq.osd.mil/dpap/dars/pgi/pgi.htm/PGI216_5.htm

FAR 16.505(b)(2)(ii)(A-C) addresses documentation, justification and approval requirements for use of a Fair Opportunity Exception. The cornerstone of the justification for use of STARS II directed orders should be that the requirement was awarded under the 8(a) Program pursuant to the authority of the Small Business Act, 15 U.S.C. 637(a), the related language in the FAR at both 1.102(b)(4) and 19.804-6 (a-c), and FAR 16.505(b)(2)(i)(E).

OCOs should follow the posting requirement for using any Fair Opportunity Exception established at FAR 16.505(b)(2)(ii)(D)(1-5).

Streamlined/Multi Phased Order Competitions

Any competed order must be issued to all industry partners in a constellation and functional area reasonable for the requirement. For all competitive orders, the OCO may consider the use of a multi-phased approach. A multi-phased approach is a streamlined evaluation process that may be used to save time and resources for the industry partner and the government. There are several benefits to a streamlined multi-phased approach, such as reducing the time and resources expended in the competition, lowering proposal preparation costs, and

improving the exchange of information between the government and the offerors. Representatives from the Small Business GWAC Center are available for consultation on the various multi-phased approaches, and offer suggested two-phase best practice.

Phase One

1. Develop a preliminary RFQ or RFP that includes salient characteristics of the specific requirement (e.g. work synopsis, security clearance needs, specialized information, certifications required, deliverables, response requirements, etc.) and discloses the general basis on which selections will be made. Determine if your requirements dictate a constellation one or constellation two competition. Select the functional area on that constellation which best fits the requirement.
 - Instruct industry partners to inform the OCO of their affirmative interest in the competition by the date shown in the preliminary RFQ or RFP, or they will not be included in phase two (stating that a non-response in the affirmative will constitute an opt-out.)
 - Establish a response deadline that makes sense for phase one, understanding that the bid/proposal effort for phase one is typically minimal for the industry partners, unless more detailed information is required than what is suggested in this Phase One best practice (a few days will typically suffice – STARS II industry partners have an affirmative duty to actively monitor STARS II fair opportunity channels.)
 - Transmit the preliminary RFQ OR RFP to the entire list of awardees on the appropriate constellation and functional area to determine their interest in the competition, permitting them to opt-in or opt-out of phase two. GSA's e-Buy is recommended, which will allow the OCO to include only STARS II industry partners, and provides proof that it was posted. Industry partners are responsible for monitoring e-Buy, and keeping their profile information current. GSA OCOs may also use ITSS and select all industry partners associated with the appropriate STARS II constellation and functional area.
2. Maintain a record of the preliminary RFQ OR RFP transmittal and responses in the order file to document use of fair opportunity procedures. Save transmission failure notices for the record. Make sure to reasonably assess and address any transmission failures to ensure fair opportunity to be considered is provided. Consult the STARS II CO for advice on transmission failures. Using E-Buy provides a high degree of assurance that fair opportunity to be considered has been provided.
3. When issuing the RFQ OR RFP, the OCO must include all STARS II industry partners (in the selected constellation and functional area) that have indicated interest in further consideration/opted-in for phase two, but not those who did not respond in the affirmative under phase one.

Phase Two

Please ensure that all STARS II industry partners (in the selected constellation and functional area) who opted-in during Phase One receive a copy of the full RFQ OR RFP in Phase Two. Historically, this process reduces the number of proposals by targeting those industry partners who have researched their current capabilities and availability, and provides useful acquisition planning/logistical/milestone information. GSA's eBuy is not recommended as a means of issuing the phase two full RFQ OR RFP. Please contact the STARS II PCO if you have any questions regarding the issuing of a phase two streamlined order RFQ OR RFP.

Step 5: Evaluate Quotes or Proposals

OCO's should evaluate proposals based only on the methodology stated in the RFQ or RFP. Evaluation

methods based on FAR and client agency policies for assessing price, and non-price, aspects of quotes and proposals, in order to achieve best value, are useful guides for OCOs.

Price Evaluation

The pre-established pricing on the contract is for various labor categories, and will typically be employed for time and materials and labor hour orders, or orders having some measure of either or both of those contract types. Established labor category ceiling prices were considered to be fair and reasonable, and were generally heavily discounted from the offerors' originally offered prices. The median labor category prices across all industry partners for each labor category in each geographic locality will be shown on the STARS II website, www.gsa.gov/8astars2, in the near future. In the interim, please contact the 8(a) STARS II Team at S2@gsa.gov with any pricing related needs. There is additional guidance for price evaluation for each contract type available for STARS II orders after the next three paragraphs.

The Contract Access Fee (CAF) of 0.75% (or 0.0075) is an amount to be applied to the total price for industry partner performance as billed to the government. On all orders, regardless of order type, industry partners must account for CAF in their quotes and proposals. Requiring industry partners to account for CAF in all quotes and proposals does not automatically mean that primes will always charge a client CAF up to the amount they have to remit to GSA as a direct cost, because a contractor can choose to simply pay that out of its profit or operating funds. OCOs may address CAF as a separate Contract Line Item Number (CLIN) in an order RFQ or RFP, which would also entail directing prime contractors to separately identify it in quotes or proposals as an explicit direct charge.

OCO's preparing RFQs and/or RFPs for work with a place of performance in New Mexico are strongly encouraged to address CAF as a separate CLIN so that the amount of CAF the contractor is collecting from the funding agency (agencies), and remitting to GSA as its agent, is quantified and discrete.

Alternatively, OCOs may require, as stated in the order solicitation, industry partners to include CAF in their offered Loaded Hourly Labor Rate on Time and Materials and Labor-Hour type orders. The Industry partner remits the CAF to GSA in accordance with Contract Administration, Section III paragraph 22.

Fixed Price

Pursuant to FAR 16.505(b)(3), the OCO is responsible for completing and documenting fair and reasonable pricing for fixed price orders in accordance with FAR 15.4, Pricing and FAR 16.2, Fixed-Price Contracts, and should reference the Contract, Section I, paragraph 10, Fixed Price Order Type for more information.

Time and Materials and Labor-Hour

The competitive basic contract rates are very useful pricing references for OCOs to incorporate into their price analyses for T&M and/or Labor-Hour order types. This pricing will be posted on the STARS II website, www.gsa.gov/8astars2, in the near future. The OCO is responsible for considering the place of performance, level of effort, and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price for the order is appropriate given the requirements and order type, consistent with FAR 15.4, Contract Pricing and FAR 16.601 Time and Materials Contracts. Basic contract line item prices are not to be accepted by OCOs automatically as order prices. Negotiation and/or competition for orders may result in lower order pricing.

The OCO is further authorized to establish different hourly rates suited to meet the Ordering agency's specific requirements and determine fair and reasonable pricing in accordance with FAR 15.4, Contract Pricing, and FAR 16.601 Time and Materials Contracts when other considerations, such as OCONUS location (See Pricing Section 1 paragraph 12.3), or security clearances beyond

the secret level require deviation from established pricing. Industry partners shall explain and justify in their order proposals any Loaded Hourly Labor Rates that exceed the rates in the basic contract. Upon request of the OCO, the Industry partner shall provide other than cost or pricing data, to include a cost element breakdown of each Loaded Hourly Labor Rate, including Profit, in accordance with the Industry partner's cost accounting system, as well as any other supporting information the OCO deems necessary.

NOTE: There are various payments clauses applicable to commercial T&M or LH services procurements. The OCO should ensure that the applicable payments clause(s) is (are) clearly configured and assigned in each order RFQ OR RFP and resulting order. The FAR prescription for use, and customer agency guidance on each potential payments clause choice and configuration, provides sufficient detail to enable the OCO to complete this responsibility. Please refer to Appendix IX for additional guidance regarding the implementation of FAR 52.232-7, Payments under T&M and LH Contracts

Incentives

The OCO must evaluate and determine the appropriateness of all Incentive terms, and develop a surveillance plan to implement and monitor an Award-Fee, Incentive-Fee, or Award-Term result in accordance with FAR 15.4, Pricing, and FAR 16.4, Incentive Contracts. See Pricing Section 1 paragraph 11. OCOs considering incentives are reminded of their obligations under FAR 1.602-2.

Step 6: Document Decision and Manage Award

FAR 16.505(b)(5) -- Ordering, states that the OCO shall document in the order file the rationale for placement and price of each order, including the basis for award and the rationale for any tradeoffs among cost or price and non-cost considerations in making the award decision. This documentation need not quantify the tradeoffs that led to the decision. The contract file shall also identify the basis for using an exception to the fair opportunity process. If the agency uses the logical follow-on exception, the rationale shall describe why the relationship between the initial order and the follow-on is logical (e.g. in terms of scope, period performance or value).

The document supporting the award should be sufficiently detailed to clearly explain why the industry partner was selected for award.

Orders may be issued on any federal agency authorized form. Orders may be distributed by mail, fax or e-mail. Oral Orders are not authorized. In accordance with the DPA, one copy of the order and any subsequent modifications, along with a copy of the SOW/PWS/SOO, shall be faxed or e-mailed to the Center at (816) 823-1608 or S2@gsa.gov, respectively.

Announcement of Order Award

Although it is generally not required to announce order awards in www.fedbizopps.gov for which fair opportunity to be considered was provided, doing so may be necessary to satisfy requirements of specialized appropriations, such as those from the American Recovery and Reinvestment Act.

Notification to Unsuccessful Competitors and Debriefing

In accordance with FAR 16.505(b)(4)(i), FAR 16.503(b)(1) shall be followed to provide notification to unsuccessful competitors.

In accordance with FAR 16.505(b)(4)(ii), debriefings consistent with FAR 15.506, or authorized customer agency supplement, are required when timely requested for Orders greater than \$5,000,000, a summary of which shall be maintained in the OCO's order file per 16.505(b)(4)(iii).

Debriefings for Orders less than 5,000,000 are also encouraged but are not required.

Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) procedures increase the opportunity for relatively inexpensive and expeditious resolution of issues in controversy. These procedures may be used at any time that the OCO has authority to resolve the issue in controversy. If the Industry partner submits a claim, ADR procedures may be applied to all or part of the claim. When ADR procedures are used after the issuance of a contracting officer's final decision, the time limitations or procedural requirements for filing an appeal of the contracting officer's final decision are not altered.

Order Level Protest

In accordance with FAR 16.505 (a)(9)(i), no protest under **\$10,000,000** is authorized in connection with the issuance or proposed issuance of an Order under a Task-Order Contract or Delivery-Order Contract, except for a protest on the grounds that the Order increases the scope, period of performance, or maximum value of the Contract. The Government Accounting Office (GAO) has exclusive jurisdiction over any protests greater than **\$10,000,000**.

Ombudsman Process

In accordance with FAR 16.505(b)(6) [and 10 U.S.C. § 2304c(3)], complaints related to matters affecting order award may be directed to the designated Ombudsman.

Step 7: Administer Order

Quality Assurance – Industry Partner Surveillance

The OCO is responsible for insuring industry partner performance meets the minimum requirements established in the order, documenting the order file and communicating with the industry partner to ensure the government is receiving the contracted services. If industry partner performance monitoring is delegated to a contracting officer representative (COR) or contracting officer technical representative (COTR) the specific authority/limitations should be documented and a copy provided to the industry partner.

Past Performance

At completion of order performance, and annually for orders with a period of performance exceeding one year, the OCO is required by FAR 42.15 (as it is a FAR requirement, it is derived from the OCO's warrant, and not as a result of the DPA) to complete a past performance record for the industry partner. Customer agencies participating in the Integrated Acquisition Environment have established a governmentwide past performance platform relying upon CPARS as a feeder system to PPIRS. Consistent with FAR 16.505(b)(1)(iv)(A)(1), the Small Business GWAC Center will publish a register of order numbers on a website associated with STARS II which will be updated quarterly, in arrears, as an aid to OCOs wanting to perform due diligence on STARS II prime contractors past performance during source selection.

Reporting and Order Closeout

The DPA provides details about the reporting expectations for OCOs. The STARS II team is available to consult with OCOs about those requirements.

It is the OCO's responsibility to close out Orders per FAR 4.804 and Part 4.805 [DFAR 204.804 and Part 204.805]. Please provide a copy of close out modifications to the Center in accordance with the DPA. The documents may be faxed or e-mailed to the Center at (816) 823-1608 or S2@gsa.gov respectively.

Other Ordering Considerations

Potential Organizational Conflicts of Interests

In the event an order solicitation might create a potential or actual conflict of interest, the OCO should identify the potential or actual conflict and decide if a tasking approach is available which mitigates the risk or if other appropriate action is necessary consistent with FAR 9.5. The OCO will routinely work with their agency legal counsel on such matters.

If an OCO discovers a potential or actual conflict of interest after order issuance, the OCO should conduct due diligence and determine if the waiver discussed at FAR 9.503 is warranted, and take appropriate action.

Industry Partner Responsibility – Order Level

Overall responsibility has been determined for each GWAC industry partner. However, in accordance with FAR 9.405-1 and the Office of Federal Procurement Policy Memorandum, “Contractor Responsibility Determinations and Indefinite-Delivery Contracts,” dated April 16, 2002, it is highly recommended that OCOs complete and document an Excluded Parties List review on industry partners they intend to award orders to prior to making each order award. This policy is also consistent with DFARS Part 209.405-1.

Order Funding

Funding for each order shall be at the order level. Incremental funding strategies may be used when consistent with customer agency policy. OCOs should ensure that funding supporting order work is appropriate for the type and range of contemplated work. All orders are subject to funding agency appropriation guidelines.

Assuring IT is the Principle Purpose of Every Order

In the context of STARS II, permissible IT encompasses requirements having a principal purpose tied to work consistent with a STARS II NAICS code/FA. Therefore, it is beneficial to be familiar with the NAICS code definitions, and guidance on selecting a primary NAICS code found at FAR 19.102(c-d). STARS II NAICS codes are classified in the NAICS system as services.

For the current definition of IT, see FAR 2.101

OCO due diligence and consultation with the Center (refer to Appendix VII *Scope Compatibility Review Request*) are beneficial risk mitigation strategies for assuring potential work is a good fit for STARS II, especially for higher risk work areas.

Examples of Higher Risk Work Areas:

- Ancillary Construction
- Business Process Re-engineering
- Call Centers
- Contingency Planning
- Data Entry
- Disaster Preparedness/Recovery
- Documentation
- Enterprise Resource Planning
- Equipment Inventory and Maintenance
- Help Desk
- Foreign Area Work
- Physical security

Higher risk work areas can often be configured in orders if they are properly vetted and addressed. OCOs considering higher risk work areas are reminded of their obligations under FAR 1.602-2.

The Small Business GWAC Center is pleased to partner with OCOs through DPA Training, providing the STARS II contract on the STARS II website, providing the STARS II Ordering Guide on the STARS II website, and offering the Advance Scope Compatibility Review process, in order to proactively advise OCOs in these matters.

Not Allowed on STARS II

- Renting/leasing (*it is permissible for an industry partner, as a private party, to enter into rental or lease agreements for real or personal property in order to fulfill order requirements as a service, but the government will not be a signatory to them*).
- Blanket Purchase Agreements. *Please consult with a STARS II PCO for contractual strategies to create order flexibility.*
- Orders for which IT services are not the principle purpose within the context of STARS II
- Oral Orders

Security Clearance Considerations for Classified Orders

Security requirements will be dictated by agency specific requirements (See Contract Requirements, Section IV, paragraph 6 and paragraph 9). Before issuing an RFI, RFQ or RFP for a classified order, a determination should be made as to whether or not access to anything classified will be required during the RFI, RFQ or RFP (a/k/a “solicitation”) process. Appropriately cleared personnel should manage work requiring clearance.

If Access is Required During the RFI, RFQ or RFP Process:

All prospective industry partners who may receive the RFI, RFQ or RFP must possess the appropriate facility clearance, safeguarding capability and personnel security clearance in order to access the solicitation package. This may be ascertained by requiring proof of credentialing.

If Access is Not Required During the RFI, RFQ or RFP process:

Prospective industry partners do not have to possess facility clearances, safeguarding and personnel clearances to receive or review the RFI, RFQ or RFP.

RFIs, RFQs, RFPs and orders should specify if facility security clearance granted by a cognizant security agency (CSA) is required, and the highest required facility security clearance level. A DD254 (DoD Contract Security Clearance form) is commonly used in solicitations to present these requirements.

RFIs, RFQs, RFPs and orders should specify if SENSITIVE COMPARTMENTED INFORMATION (having various compartments), TOP SECRET, SECRET, or CONFIDENTIAL industrial personnel security clearances (a/k/a “PCL”) granted by a CSA are required. Unless the requiring activity has a bona-fide reason for precluding interim PCLs, they should be considered equivalent to non-interim PCLs. A DD254 is commonly used in solicitations to present these requirements.

RFIs, RFQs, RFPs and orders should specify if CSA cleared safeguarding is required, and if required, the highest required level. The safeguarding level should not exceed the facility security clearance level. A DD254 is commonly used in solicitations to present these requirements.

If the agency requirement is for active facility security clearance and/or current PCLs as an award prerequisite, it should be identified in the RFI, RFQ or RFP. When required as a condition of award, the following sample language is suggested for the RFI, RFQ or RFP (and in the case of an RFI, it is advisory in nature only, and not intended to be a screen that is typically implemented at that juncture).

The government considers the requirement for ___(cite the applicable clearance(s) & safeguarding) ___ a definitive responsibility matter, i.e., Offerors must submit proof of these credentials before order award. This proof shall be made available to the government after the deadline for receipt of quotes/proposals within five (5) working days of the government's request for it. Failure to submit that information within five (5) working days will be deemed a material nonconformity and result in your non-selection/offer rejection. Competitors are advised to have clearance documentation available when the government requests it.

There are four different CSAs, all of which have equal authority: The Department of Defense, the Department of Energy, the Central Intelligence Agency, and the Nuclear Regulatory Commission. Reciprocity/equivalency of clearances between the CSAs is an evolving area and is not guaranteed. If the customer agency prefers or requires clearances from a particular CSA, the order solicitation should specify the applicable CSA.

Subcontracting

This is a shared interest area between the GWAC PCOs, OCOs, and industry partners.

In accordance with the 13 CFR 125.6, under STARS II, each industry partner will perform at least 50 percent of cost of the contract incurred for personnel with its own employees. This is associated with FAR 52.219-14, Limitation on Subcontracting.

Each industry partner is responsible for managing the balance of workload being performed under their contract. Contract Administration, Section III, paragraphs 15 and 16 establish subcontracting tracking and reporting requirements for STARS II GWAC industry partners. It is a requirement of the STARS II industry partners to submit semi-annual subcontracting reports to the Small Business GWAC Center, for which 13 CFR 124.510(c) provides additional useful guidance. Not only are industry partners responsible for complying with FAR 52.219-14, they are also required to perform a meaningful amount on each order to prevent pass-through situations, which is guided by 13 CFR 124.510(c). While the standard of performing "a meaningful amount of work" is contextual, it is subject to the reasonable person standard of review, using at least intermediate scrutiny. Arguably, an order where the prime contractor proposes, or only plans, to perform <%10 (a single digit) of the overall work, gives rise to serious concern about a pass through, and must, against the odds, pass strict scrutiny before being considered anything but a pass through.

It is a best practice to require industry partners to disclose the amount of work they intend to perform with their own resources in order quotations and proposals. Industry partner team arrangements, in the form of prime contractor-subcontractor relationships, may be desirable from both a government and industry standpoint in order to enable the companies involved to complement each other's unique capabilities; and offer the government the best combination of performance, cost, and delivery for the service being acquired. It is reasonable, and routine, that, on larger tasks, small business industry partners may manage capacity building through subcontracting with other companies to provide scalability in the early stages of performance. It is reasonable, and consistent with SBA's 8(a) program regulatory framework, to consider the total prospective life cycle of an order, including pre-priced options, when evaluating how much work the prime plans to perform for a given order. OCO consent to subcontract may be implemented in accordance with FAR 44.2, Consent to Subcontracts, and FAR 52.244-2, Subcontracts. OCOs may require subcontractor responsibility determinations of prospective subcontractors per FAR 9.103(b) and 9.104-1. STARS II PCO subcontractor consent is not required.

The STARS II PCOs practice progressively greater surveillance and enforcement of the Limitation of Subcontracting, and pass through, requirements, depending upon the circumstances, ranging from, but not limited to: additional contractor surveillance, increased contractor reporting, requiring corrective action plans for existing orders (without jeopardizing an agency's mission by arbitrarily cutting off an order) that may allow for an improvement period - or may require end point control at

an upcoming option, to termination of a contractor that has not been a good partner in these matters (without jeopardizing an agency's mission by arbitrarily cutting off an order).

Order Duration

The basic contract term consists of one five-year base period with one five-year option period. Orders should not exceed seven years.

The term for each order placed under the basic contract shall be specified in the individual order. No new orders should be placed under the basic contract if the basic contract is not in effect, has expired, or has been terminated.

Orders may be awarded during the STARS II basic contract's life, which is also referred to as the Contract Ordering Period (COP). Therefore the COP, like the basic contract term, is for a five-year base period, with one five-year option. Orders may not be issued outside the COP.

An order may be issued with a period of performance (PoP) consistent with basic contract section Pricing, Section I, paragraph 5, with or without option periods, provided:

- 1) The order PoP is consistent with the customer agency's policy on order duration and funding.
- 2) Orders may run up to three years beyond the last day of the option period's COP, and are limited to three years beyond that date. This means all task orders have to be substantially completed by August 31, 2024.
- 3) Multi-year contracting is one of the ways to structure an order's PoP and is a highly specialized endeavor. OCOs considering multi-year contracting are reminded of their obligations under FAR 1.602-2.

Pursuant to 52.216-22(d), order duration is not dependent upon the Center exercising the basic contract option, and may run past the COP. This means that an OCO can exercise an order option period even if the basic contract is no longer available for new orders/when the COP has concluded. OCOs are required to document that order options are in the best interest of the government consistent with FAR 17.207, or authorized customer agency supplement. When establishing options in an order, the full cost or price for the performance of the work must be established and evaluated in the initial order.

8(a) Credit

Industry partners on STARS II qualified, at the time of award, as 8(a) small business concerns. They also came on board at various points in their 8(a) program participation period. The industry partner listing on www.gsa.gov/8astars2 identifies those industry partners that are expected to be small businesses on the contract, which is required for customers to earn 8(a) credit on orders. Receiving 8(a) credit for STARS II orders does not depend upon a STARS II industry partner being a small business in another milieu, only on the STARS II contract.

Size Status on the Contract

FAR 52.219-28, Post Award Small Business Program Re-representation, addresses size re-representation under long term contracts such as STARS II, and is associated with SBA and FAR final rules, released at 71 FR 66434 and 74 FR 11821 & 14492, respectively. FAR 52.219-28 requires that an industry partner on the contract report to a STARS II PCO if it undergoes a merger or acquisition, with or without novation, allowing up to 30 days to make that report, whereupon size re-representation is required. If the merged or acquired industry partner remains a small business concern on the GWAC, things remain the same. If the merged or acquired industry partner becomes other than a small business concern, it is promptly reclassified as an other than small business concern - the practical impact being that: 1) existing orders with the contractor may continue, 2) pre-priced options on said existing orders may be exercised at the OCO's discretion, and 3) new orders may be awarded to the contractor but they won't provide 8(a) credit, and 4) the industry partner is referred to SBA under the terms of an 8(a) ownership change, as described on the next page.

Prior to exercising the contract level option period in 2016, all industry partners will be required to re-represent business size status per FAR 52.219-28, Post Award Small Business Program Re-representation. If the contract option is exercised, each industry partner remaining on the contract will have its FPDS-NG record updated to reflect its status as either a small business concern on the contract, or as other than a small business concern on the contract, on the industry partner listing on www.gsa.gov/8astars2. Consequently, those industry partners which remain small business concerns on the contract after the contract option will continue to provide 8(a) credit for new orders, and for options on existing and new orders.

Conversely, if an order was awarded to an industry partner that was a small business on the GWAC prior to the contract option period, and if the industry partner is other than a small business concern after the contract option period, new orders and all option periods under existing orders that occur after the contract's option period, in 2016, will not provide 8(a) credit. Alternatively, each Industry partner that would become other than a small business concern were its contract option exercised will have the choice to not have the option exercised, in which case existing orders would continue to provide small business credit.

Similarly, a STARS II PCO can consider the impact of small business credit not being available on orders of significant value awarded prior to contract option, which contain option periods occurring after the contract option period, for which the customer(s) express a strong desire to maximize 8(a) credit for those option periods (e.g. orders with order options occurring after the master contract option exceeding \$50M), as the government determines if exercising a contract option is or is not in the best interest of the government. Customers with such orders are encouraged to be proactive in order to plan for such an eventuality.

Firms that have experienced "organic" growth (those firms that are under the same ownership, that have not been merged with, or acquired by, a non-8(a) organization, with or without novation) for which the contract option is exercised will appear on the industry partner listing as being other than small business concerns on the contract.

OCOs have the discretion to require a re-representation of the industry partner's size status on the contract as a condition of order award. If an OCO intends to require an order level size re-representation as a condition of order award, they should explicitly make that assertion in the order solicitation by following the guidance in Appendix X, Order Size Re-representation (OSR). This is a different process than simply checking a contractor's status in the Central Contractor Registration system, and is well suited to this contract. Use of the OSR in Appendix X will preclude industry partners that have not yet reported a triggering event under FAR 52.219-28 (they have 30 days to notify a STARS II PCO of such changes in circumstances) from being eligible for order award, will preclude organizations that have become other than small but are awaiting an SBA 8(a) ownership decision outcome from being eligible for order award, and will also preclude firms that have organically grown from being eligible for order award.

OSR is an OCO's discretionary act, and is not required. It is suitable when an agency wants to benefit from 8(a) credit. The contract may certainly be considered for use without the intention of requiring 8(a) credit.

8(a) Program Graduation

Graduation from the 8(a) program is not a triggering event for size re-representation promulgated by FAR 52.219-28, or by its associated SBA and FAR final rules, released at 71 FR 66434 and 74 FR 11821 & 14492, respectively. Such industry partners retain full use of their contract pursuant to the contract's terms and conditions per 13 CFR 124.503(h)(1)(iii), most recently updated in a SBA Final Rule released in 2011, found in 76 FR 8222 (specifically on page 8259). This is also consistent with FAR 19.804-6(c).

8(a) Program Termination due to the Owner of an 8(a) Organization Changing

Similar to the requirements of FAR 52.219-28, FAR 52.215-19 requires STARS II contract holders to report to SBA, and to a STARS II PCO, upon any change in ownership. Since 8(a) status, in part, depends upon the business owner meeting certain qualification requirements, if that owner is no longer in control of the organization, regardless of if it results from a merger or acquisition, or some other circumstance, SBA is invested with the authority to determine if the organization will or won't be terminated from the 8(a) program. If terminated, the organization will no longer be eligible for 8(a) program benefits.

When FAR 52.215-19 applies, until SBA makes such a decision that an 8(a) program participant is or isn't terminated from the 8(a) program, a STARS II industry partner will remain an active contract holder, and no other 8(a) organization can challenge such an organization's eligibility to participate on the basis of its 8(a) status, pursuant to 13 CFR 124.517(a) "The eligibility of a Participant for a sole source or competitive 8(a) requirement may not be challenged by another Participant or any other party, either to SBA or any administrative forum as part of a bid or other contract protest."

During the interim, between the time a STARS II industry partner reports a triggering event subject to FAR 52.215-19, and SBA's decision in the matter, if the change in ownership results in the change in the organization from a small business concern, to an other than small business concern, under the size re-representation requirements of FAR 52.219-28, which has a separate notification requirement to a STARS II PCO, the organization will be reclassified as no longer being a small business concern. In such a case, 8(a) credit won't apply to orders resulting from quotes or proposals received after that point. If SBA terminates the organization's participation in the 8(a) program, GSA will promptly follow suit, and remove the industry partner from STARS II by way of a no cost cancellation, or, if necessary, a termination for convenience. The practical impact being that: 1) existing orders with the contractor may continue, 2) pre-priced options on said existing orders may be exercised at the OCO's discretion, and 3) no new orders may be awarded to the contractor (unless quotes or offers had been received from the industry partner prior to the effective date of the termination – such quotes or proposals may be considered at the OCO's discretion).

In the situation where an 8(a) graduate experiences an ownership change, and is taken over by new owner, and/or undergoes a merger or acquisition with an entity, who/that is not eligible to participate in 8(a) program benefits, or is no longer a small business concern, respectively, the organization is still required to comply with FAR 52.215-19 and 52.219-28 notification requirements. In such circumstances, SBA typically declines to exercise further jurisdiction in FAR 52.219-15 ownership matters, because, as an 8(a) program graduate, the organization is no longer receiving 8(a) program benefits. In those instances, the industry partner will be removed from STARS II by way of no cost cancellation, or, if necessary, a termination for convenience, The practical impact being that: 1) existing orders with the contractor may continue, 2) pre-priced options on said existing orders may be exercised at the OCO's discretion, and 3) no new orders may be awarded to the contractor (unless quotes or offers had been received from the industry partner prior to the effective date of the termination – such quotes or proposals may be considered at the OCO's discretion).

Requirement Cancellation

Cancellation of an order RFQ or RFP is at the discretion of the OCO. Cancellation of a RFQ or RFP may be necessary and justified for any or all of the three (3) reasons listed below, and it is a good practice for the OCO to document the cancellation decision rationale and have the cancellation decision approved pursuant to customer agency policy:

- a) Services are no longer required, or are significantly changed;
- b) All offers received are at unreasonable prices, or only one offer is received, and the OCO cannot determine the reasonableness of the price;
- c) For other reasons, cancellation is clearly in the public's interest.

Service Contract Act

The basic contract's labor categories are considered bona fide executive, administrative, professional labor and generally exempt from the Service Contract Act (SCA), which is true if they are utilized for their intended purpose and not to principally perform more mundane work.

To the extent that any labor is subject to the SCA and within scope of an order and the basic contract, the OCO must identify such work under a separate CLIN on the order and apply wages in accordance with FAR 22.10, SCA Wage Determinations.

The basic contract does not include all applicable flow-down clauses for performance subject to the SCA. Each SCA-covered order must be tailored to include the appropriate clauses and interests.

Davis Bacon & Construction

OCOs are reminded that the principle purpose of each order shall be IT from the vantage of the NAICS code definition associated with each FA, as further elaborated upon elsewhere in this Ordering Guide.

The OCO shall ensure the compatibility of appropriations for each order.

To the extent that construction, alteration and repair are subject to the Davis Bacon Act, and within scope of an order and the basic contract, the OCO must identify such work under a separate CLIN on the order and apply wages in accordance with FAR 22.404, Davis Bacon Act Wage Determinations. Any construction, alteration and repair shall be firm fixed price, even if other aspects of the order are another type. It is recognized that modifications to construction line items may not initially be fixed price as the government works through a change order and/or modification process. In such situations the FAR instructs that such work should be fully definitized as soon as practicable, and certainly before closeout.

The basic contract does not include all applicable flow-down clauses for performance subject to the Davis Bacon Act. Each order must be tailored to include the appropriate clauses and interests.

OCOs should contact the STARS II PCO for clarifications or additional guidance if needed.

Rights in Data

Rights in Data is a highly specialized area, which, like many topics, is different between the commercial contracting method and non-commercial contracting method. In the commercial method, market research and customary commercial practices are significant considerations in acquisition planning and resulting approaches that the OCO will adopt in each order RFQ or RFP. In the non-commercial contracting method, there are multiple FAR standard clauses and alternates for the OCO to consider and clearly assign in each order RFQ or RFP. OCOs are reminded of their obligations under FAR 1.602-2.

Rights Reserved by the Procuring Contracting Officer (PCO)

Only Small Business GWAC Center PCOs are authorized to modify the basic contract terms and conditions of STARS II. Only Small Business GWAC Center PCOs are authorized to delegate procurement authority. OCOs may not re-delegate a DPA. Only a warranted OCO having written DPA from a STARS II PCO may make any required change to a previously issued order and the change must be in writing.

Appendix I – Roles and Responsibilities

GSA is designated by OMB to issue the STARS II GWAC under its purview, and with that designation rests oversight. In addition to reviewing order scope, and addressing any scope incompatibility, GSA reports the following to the OMB from time to time: statistics on fair opportunity ordering, the number of orders that include performance-based terms, order types, competitive participation levels for orders, exceptions to the fair opportunity, order award values and socio-economic breakdown. Typical responsibilities for GWAC PCOs, requiring activities and OCOs are shown below, and are established in writing between the parties in a written GSA issued Delegation of Procurement Authority (DPA). A specimen DPA is available in Appendix IX.

STARS II PCO

Award, Administer, and oversee the basic contract, which includes, but is not limited to:

- Have exclusive, non-delegable rights to modify basic contract terms and conditions
- Provide advice and guidance to Ordering/requiring activities, OCOs and industry partners regarding scope and acquisition regulations
- Help Ordering/requiring activities understand how STARS II can be used to meet IT requirements
- Conduct Meetings with STARS II industry partners
- Review Subcontract Reporting and Quarterly Status Reporting

Requiring Activity

- Defines order requirements
- Prepares SOW/SOO for order RFQs/RFPs
- Funds requirements
- Ensures IT capital planning when appropriate
- Assists OCO with quote/proposal evaluation
- Assists OCO with performance monitoring and appraisal

OCO

Award, Administer and Oversees Orders, which includes, but is not limited to:

- Serves as the default COR/COTR for task orders (may re-delegate this in writing)¹
- Places task order(s) per terms of the DPA²
- May not modify the basic STARS II contracts²
- Provides fair opportunity to industry partners, where applicable¹
- Manages task order administration¹
- Oversees and executes in-scope task order modifications¹
- Resolves task order disputes¹
- Ensures FPDS-NG Reporting is completed accurately and timely¹
- Ensures all task orders and modifications, and associated information sheets found in the DPA, are forwarded to the Center in a timely manner²
- Ensures past performance is completed in accordance with FAR and customer agency procedures¹
- Ensures all orders are in scope²
- Documents order award and administration¹
- Performs order close out¹

1 - Attributable to the OCO's warrant/FAR-based responsibilities, and federal funds stewardship

2 - Attributable to the OCO's GWAC-based responsibilities

Only an OCO may make any required change to a previously issued order..

Appendix II – GSA Contacts

Small Business Governmentwide Acquisition Contracts Center
U.S. General Services Administration
Small Business GWAC Center
1500 East Bannister Road, Room 1076
Kansas City, MO 64131
Toll free: 1-877-327-8732
Fax: 816-823-1608
E-mail: S2@gsa.gov
Web: www.gsa.gov/8astars2

Matt Verhulst
Contracts Branch Chief
816-926-1366
matthew.verhulst@gsa.gov

Jean Oyler
Business Operations Manager
816-823-3358
jean.oyler@gsa.gov

Misty Claypole
STARS II PCO
816-823-3346
misty.claypole@gsa.gov

Lori Hanavan
STARS II Business Development Specialist
816-823-1492
lori.hanavan@gsa.gov

Todd Tekesky
STARS II PCO
816-823-2468
todd.tekesky@gsa.gov

Herman Lyons
STARS II Business Development Specialist
816-823-2469
herman.lyons@gsa.gov

Vicki McReynolds
STARS II Contract Specialist
816-926-1387
vicki.mcreynolds@gsa.gov

For a list of the entire Small Business GWAC Center staff, go to: www.gsa.gov/sbgwac

Appendix III – References & Resources

Central Contractor Registration

<http://www.ccr.gov/>

e-Buy

www.ebuy.gsa.gov

e-Library

www.gsaelibrary.gsa.gov

Federal Acquisition Regulations

<http://acquisition.gov/comp/far/index.html>

Federal Procurement Data System – Next Generation

<https://www.fpds.gov/>

GSAM-General Services Administration Acquisition Manual

<http://acquisition.gov/comp/gsam/gsam.html>

Information Technology Solutions Shop (ITSS)

<http://itss.gsa.gov>

North American Industrial Classification System (2007 NAICS)

<http://www.census.gov>

Section 508 Accessibility Standards

<http://www.access-board.gov/sec508/standards.htm>

Small Business Administration

<http://www.sba.gov/>

Small Business Governmentwide Acquisition Contracts Center, STARS II GWAC

<http://www.gsa.gov/8astars2>

E-mail: S2@gsa.gov

Appendix IV – Eligibility to Use GSA Sources of Supply

GSA Order ADM 4800.2G

This order provides definitions and listings of agencies and other activities authorized to use GSA sources of supply and services. It also provides definitive guidelines concerning eligibility requirements. GSA Order ADM 4800.2G can be found at:

<http://www.gsa.gov/portal/content/104212>

Appendix V – Glossary

BASIC CONTRACT	The STARS II GWAC
CO	Contracting Officer
COP	Contract Ordering Period
COR	Contracting Officer’s Representative
COTR	Contracting Officer’s Technical Representative
DPA	Delegation of Procurement Authority
e-Buy	Electronic Request for Quote (RFQ) / Request for Proposal (RFP) system designed to allow federal buyers to request information, find sources, and prepare RFQs/RFPs online: http://www.ebuy.gsa.gov
e-Library	On-line research tool for buyer and seller to find information about GSA GWACs
FAIR OPPORTUNITY	Fair Opportunity to be considered will normally be provided to all Contract holders on all RFQ OR RFP/Orders exceeding \$4,000,000.00, unless one or more of the five statutory Fair Opportunity exceptions found in Federal Acquisition Regulation (FAR) 16.505(b)(2)(i)(A-E) applies.
FAR	Federal Acquisition Regulations
FFATA	Federal Funding and Accountability Transparency Act: www.ffata.org
FPDS-NG	Federal Procurement Data System – Next Generation: www.fpds.gov
GSA	General Services Administration
GMM	GWAC Management Module
GWAC	Governmentwide Acquisition Contract in accordance with FAR 2.101 is a task order or delivery order contract for information technology established by one agency for governmentwide use that is operated -- (1) By an executive agent designated by the Office of Management and Budget pursuant to 40 U.S.C. 11302(e); or (2) Under a DPA issued by the General Services Administration (GSA) prior to August 7, 1996, under authority granted GSA by former section 40 U.S.C. 759, repealed by Pub. L. 104-106. The Economy Act does not apply to orders under a GWAC.

IDIQ	Indefinite-Delivery Indefinite-Quantity (see also FAR 16)
IT	Information Technology, see FAR 2.101 for definition
ITSS	IT Solutions Shop-web location for sales reporting and GSA Ordering http://its.gsa.gov
NAICS	North American Industrial Classification System (use version 2007)
NDAA 2008	The National Defense Authorization Act of 2008
NDAA 2009	The National Defense Authorization Act of 2009
OCO	Ordering Contracting Officer
ORDER	Procurement awarded under the basic contract
PCO	Procuring Contracting Officer
RFI	Request for Information
RFQ	Request for Quotation
RFP	Request for Proposals
SBGWAC	Small Business Governmentwide Acquisition Contracts Center
WORK STATEMENT	Generic name for statement of work, statement of objectives, performance work statement, etc.

Appendix VI – Scope Compatibility Review Request

See the next page for a sample of the request form, which is available online at www.gsa.gov/s2

Scope Compatibility Review Request

In order to expedite your request for a scope review, please attach 1) this completed form, using additional pages as necessary, along with 2) the work statement and 3) a detailed government estimate (if any) to an email addressed to SOWreview@gsa.gov.

Project Name _____

Project Number _____

Agency _____

Contracting Officer

Name _____

Phone Number _____

E-mail _____

Program Contact

Name _____

Phone Number _____

E-mail _____

**Estimated Task Order Amount
Inclusive of Options**

(Attach detailed government estimate, if any)

Best fit NAICS code for Project _____

Estimated Solicitation Date _____

Desired Award Date _____

Estimated Period of Performance _____

Acquisition History _____

Desired IT Services GWAC (select one): VETS ALLIANT SB 8(a) STARS II

Functional Area Selection (except ASB) _____ **Constellation for STARS II** _____

Proposed Order Type: (check all that apply) Fixed-Price Time & Materials Labor-Hour *Cost

*Cost contract terms are applicable to Alliant SB only

Provide the Estimated Task % that is:

***IT Services** _____% **Services but non-IT** _____% **Product** _____% **Travel** _____%

*Please utilize the definition provided in FAR 2.101 for "Information Technology" when determining the IT Services percentage. These percentages are merely guides to help review the nature of the requirement and of themselves are not deterministic.

Have you used this process before? Yes / No _____

Although GSA will respond in writing, would you also like a consultation? Yes / No _____

Appendix VII – Claiming 8(a) Credit

Ordering agencies and third party assisted contracting services are required to report all orders greater than the micropurchase threshold in FPDS-NG, www.fpds.gov in accordance with FAR 4.603. Proper reporting ensures socioeconomic credit will be received.

The FPDS-NG user's guide is on the Internet at:

[http://www.fpdsng.com/downloads/FPDS NG%20Users%20Manual. pdf](http://www.fpdsng.com/downloads/FPDS%20NG%20Users%20Manual.pdf)

DIRECT ACQUISITION CODING

Direct acquisition is when agency contracting officers obtains Delegation of Procurement Authority from the Center to utilize the STARS II in support of their own agency's procurements.

It is the Ordering agency's responsibility to report Orders in FPDS. This is accomplished via agency specific guidelines and methods for reporting these awards (direct FPDS-NG data entry or through a feeder system).

Some of the information being reported will include:

- Contracting Office Agency ID* (FPDS-NG user's guide 3.4.1)
- Contracting Office Agency Name (FPDS-NG user's guide 3.4.2, auto populates from the ID above)
- Contracting Office ID* (FPDS-NG user's guide 3.4.3)
- Contracting Office Name (FPDS-NG user's guide 3.4.3, auto populates from the ID above)
- FIPS 95 codes associated with the agency

The following information is an excerpt from the FPDS-NG User's Manual at Section 3.4 captioned "**PURCHASER INFORMATION**". When an agency is reporting its own orders, it must fill in the Contracting Office agency ID and Contracting Office ID. The socioeconomic credit is tied to the organization when the rest of the order information is matched up as an order against the applicable STARS II contract number (referenced IDV). For DoD Agencies, the order takes on all of the characteristics of the parent GWAC (referenced IDV). When ordering for a customer agency, fill out the Contracting Office agency ID and Contracting Office ID, and **also** fill in the funding agency ID and funding office ID for the customer agency to transfer the socioeconomic credit to the customer:

PURCHASER INFORMATION

CONTRACTING OFFICE AGENCY ID [LA]

FPDS-NG automatically populates this field based on the user's profile. This code cannot be changed when the document is in final status unless a modification to specifically transfer responsibility to another office is issued. This field uses FIPS 95 codes to identify contracting office agencies.

CONTRACTING OFFICE AGENCY NAME [LA]

FPDS-NG automatically populates this field based on the name associated with the Contracting Office Agency ID in FIPS 95.

CONTRACTING OFFICE ID [LR]

Enter the FIPS 95 code that identifies the contracting office.

CONTRACTING OFFICE NAME [LA]

FPDS-NG automatically populates this field based on the name associated with the Contracting Office ID in FIPS 95.

FUNDING AGENCY ID [LR]

Enter the code that corresponds to the DoD automatic addressing code (DoDAAC) for the funding agency on the attached list found at this link:

FUNDING AGENCY NAME [LA]

FPDS-NG automatically populates the agency name based on the code entered in the Funding Agency ID.

FUNDING OFFICE ID [R]

Enter the DoD automatic addressing code (DoDAAC) identified on the purchase requisition and representing the transaction's requisitioner, not the pay office or accounting station DoDAAC. If Funding Agency is DOD, then Program/Funding Office Code must have a value from the DODAAC.

FUNDING OFFICE NAME [A]

FPDS-NG automatically populates the office name based on the code entered in the Funding Office ID.

FUNDED BY FOREIGN ENTITY [R]

Check the box if a foreign government or international organization bears some of the cost of the acquisition (this includes Foreign Military Sales).

REASON FOR INTER-AGENCY CONTRACTING [R]

The reason for purchase must be a valid value from the FPDS-NG data dictionary. If program/funding agency code is DOD and product/service code begins with 70, D3, H 170, H270, H370, H970, J070, K070, L070, N070, U01 2, or W070, then reason for purchase must not be blank. Otherwise, leave blank. When the contracting agency or the funding agency is DOD and this procurement is for computer hardware or services, select a value for the reason certified by the funding office.

CLAIMING SOCIOECONOMIC CREDIT – CIVILIAN AGENCY CODING

In addition to the above, Civilian Agencies would need to code actions against Set Aside GWACs as follows:

EXTENT COMPETED

Should be coded either "Competitive Delivery Order" or "Noncompetitive Delivery Order". If Fair Opportunity to be considered was provided, select "Competitive Delivery Order". If an exception to Fair Opportunity to be considered was used, then select "Noncompetitive Delivery Order".

SOLICITATION PROCEDURES

Will be "Negotiated Proposal/Quote" or "No Solicitation Procedures Used"

TYPE OF SET-ASIDE

Should be coded "No Set-Aside Used". Since the entire GWAC (referenced Indefinite Delivery Vehicle (IDV)) is set-aside, there is no requirement set aside the individual tasks.

EVALUATED PREFERENCE

Should be "No Preference Used"

ASSISTED CONTRACTING SERVICES CODING

Assisted Contracting Services are when an agency chooses to use a third party to order, award and administer orders for them. This is optional and is a determination made solely by the agency.

If the Ordering agency chooses to use a third party to procure the services for them the third party will typically report the order in FPDS-NG against the proper contract vehicle. The third party will typically report information about itself and ALSO report information about the customer, which gives the agency that chose to use the third party proper socio-economic credit.

Some of the information reported by the third party about itself includes:

- Contracting Office Agency ID (FPDS-NG user's guide 3.4.1)
- Contracting Office Agency Name (FPDS-NG user's guide 3.4.2, auto populates from the ID above)
- Contracting Office ID (FPDS-NG user's guide 3.4.3)
- Contracting Office Name (FPDS-NG user's guide 3.4.3, auto populates from the ID above)

Some of the information reported by the third party about the customer includes:

- Funding Agency ID* (FPDS-NG users' guide 3.4.5)
- Funding Agency Name (FPDS-NG user's guide 3.4.6, auto populates from the ID above)
- Funding Office ID* (FPDS-NG user's guide 3.4.7)
- Funding Office Name (FPDS-NG User's guide 3.4.8, auto populates from the ID above)

* These IDs are the FIPS 95 codes used by the customer

When using a third party assisted contracting service, it is useful for the customer to inform the third party of the FIPS 95 funding codes to use when reporting the Funding Agency ID and the Funding Office ID.

To guarantee the proper socio-economic credit is received, it is important for the customer to ensure that the FIPS 95 codes are as specific as desired. If the customer finds that their agency's funding IDs are not as specific as they would like, this can be updated through the FIPS update process.

In addition to the above information being reported in FPDS, it is mandatory for the agency to report the reason for purchase. Please reference section 3.4.10 of the FPDS-NG user's guide for specific information regarding this requirement.

This must be a valid value from the FPDS-NG data dictionary. If program/funding agency code is DOD and product/service code begins with 70, D3, H170, H270, H370, H970, J070, K070, L070, N070, U012, or W070, then reason for purchase must not be blank. Otherwise, leave blank. When the contracting agency or the funding agency is DOD and this procurement is for computer hardware or services, select a value for the reason certified by the funding office.

Appendix VIII – Specimen Delegation of Procurement Authority

A specimen Delegation of Procurement Authority is presented, beginning on the next page.

MEMORANDUM FOR: Ordering Contracting Officer (OCO)

FROM: Misty Claypole
GWAC Contracting Officer – **8(a) STARS II**
(877) 327-8732 (Office) (816) 823-1608 (Fax)
www.gsa.gov/8astars2

SUBJECT: Delegation of Procurement Authority (DPA) for OCO to Compete, Award and Administer Task Orders (a/k/a “Orders”)

GWACs: 8(a) STARS II

The purpose of this DPA is to ensure that the roles and responsibilities between the GWAC CO and the OCO are clearly established, and to comply with the Office of Management and Budget’s (OMB) Executive Agent designation to GSA authorizing it to compete, award and administer GWACs per the Clinger-Cohen Act of 1996. The Executive Agent designation stipulates certain training, oversight and reporting requirements for which GSA is responsible in order to ensure proper use of its GWACs while promoting public policy objectives.

The authority granted to you under this DPA is limited to the named GWACs and those Task Orders awarded by you or another OCO possessing a valid DPA in your current warranting organization. The DPA authority does not extend to the GWAC Basic Contract or Task Orders awarded by other OCOs outside your current warranting organization. You will act as the central point of contact under each Task Order and are responsible for coordinating with the awarded Contractor, the Client (the funding organization/receiver of goods or services) and GSA. This applies regardless of whether your contracting organization is acting as the Servicing Agency on behalf of a Client outside your agency or if you are the Requesting Agency for your own organization’s requirement. You will perform all required pre and post award functions associated with the task order subject to the following terms and conditions of this DPA:

1. **Compliance** – You are expected to comply with the GWAC’s terms and conditions, the GWAC’s ordering guide, the Federal Acquisition Regulation (FAR) or authorized agency supplement or exception thereto, applicable agency-specific statutes and policies, and the additional responsibilities defined in this DPA.
2. **Duration** – This DPA is effective until the expiration of the respective GWAC contract or completion and closeout of the resultant Task Orders, whichever is later. You are also required to maintain a valid warrant authority. Notwithstanding the preceding, this DPA is as portable as your warrant. That is, if you change organizations and your warrant is still valid, the DPA is portable/you still maintain your DPA. However, if you change organizations and your warrant is no longer valid, this DPA is automatically revoked. In the event that you are re-warranted in a new federal organization (DoD or Civilian), a new DPA request will be expedited. The DPA cannot be re-delegated.
3. **Revocation** – GSA may revoke this DPA at any time for failure to comply with treaty, law, regulation, ethical standards and applicable federal acquisition policies and procedures. GSA will be cognizant of the need to ensure Task Order continuity if such actions are initiated.
4. **Scope Compliance** – Ensure that Task Order work is within the GWAC’s scope. The GWAC program team is available to assist with this determination at any time upon request. You may request a review of your requirements (e.g. Statement of Work/ Statement of Objectives) prior to Task Order solicitation/modification from the GWAC CO(s).
5. **Administrative Reporting** – Upon award, OCOs are responsible for entering Task Order information into the Federal Procurement Data System – Next Generation (FPDS-NG). In addition to FPDS-NG reporting, OCOs are required to provide a complete copy of the Task Order, e.g., the signature page, the work statement and the line items (equivalent to

Sections A-J of the Uniform Contract Format, or equivalent if a commercial services Task Order), any subsequent modifications and the Task Order information form(s) included with this DPA to the respective GWAC's email address or fax number.

The OCO is responsible for complying with all FAR-based rules when competing, awarding and administering Task Orders. The following list of duties (not all inclusive) represent key areas of responsibility:

- **Fair Opportunity** – Ensure that all contractors are provided a fair opportunity to be considered in accordance with FAR 16.505, or authorized agency supplements or exceptions thereto, prior to Task Order award. Any exceptions to fair opportunity to be considered (“fair opportunity exceptions”) must be consistent with FAR 16.505 or authorized agency supplements or exceptions thereto or as otherwise required or allowed by statute. If a fair opportunity exception is taken, the OCO should reasonably document the basis for the exception.
- **Funding** – Verify that funding is available. Comply with appropriations law and financial policy. Ensure timely obligation of funds, and de-obligation and disposition of excess funds.
- **COR/COTR** – If a Contracting Officer's Representative (COR) and/or Contracting Officer's Technical Representative (COTR), is assigned to perform order monitoring functions, you must ensure that the extent of their authority and responsibilities is clearly defined and agreed upon. It is a best practice to complete COR and/or COTR designations in writing and present them to the Contractor in order to establish clear roles and responsibilities during Task Order administration. Ensure that any COR or COTR you designate is properly equipped, trained and qualified to handle those responsibilities pursuant to your agency policy.
- **Task Order Protests, Disputes and Claims** –Receive and respond to Task Order protests, disputes and claims. The warranting agency is responsible for the OCO's decisions and actions as a warranted contracting officer.
- **Monitor, Evaluate and Report Contractor Task Order Performance** – Assure contractor performance and support compliance with both Task Order and contract terms and conditions. Take appropriate action to maintain the government's rights. OCOs should conduct contractor performance evaluations IAW FAR 42.15, and applicable agency policies. Interim performance evaluations are encouraged for each Task Order. OCOs should use their organization's designated contractor performance reporting application to record performance.
- **Cost or Price Analysis and Audits** –Perform and document cost analysis and/or price analysis (FAR 15.4) as appropriate in determining the overall Task Order price to be fair and reasonable, as well as respond to any related audits.
- **Prompt Payment** – Ensure prompt payment of contractor invoices and prompt rejection of nonconforming invoices.
- **Task Order Closeout** – Perform Task Order closeout IAW FAR 4.804-5 and provide the GWAC Contracting Officer with a Task Order closeout completion statement.
- **Requests for Information** – Respond to any requests for information pertaining to Task Orders awarded or administered by you including but - not limited to, Freedom of Information Act requests, and inquiries/audits by: Congress, Inspectors General, the Small Business Administration, the General Accountability Office and the GSA.

Thank you for your interest in GSA's GWAC Program. We are committed to delivering acquisition vehicles that provide our customers with convenient access to the best qualified contractors in the Information Technology services and services-based solutions marketplace. If you have any questions regarding this DPA, the respective GWAC, or our program in general, please feel free to contact the GWAC Program at any time.

For more information about the GWAC(s) addressed in this DPA, please visit our website at www.gsa.gov/gwacs. There you will find a link to the specific GWAC's website which contains a copy of the Basic Contract and other useful information, including various points of contact.

BASIC AWARD - TASK ORDER INFORMATION FORM

Task Order Number:

Project Title:

Contract Number:

Predominant Contract Type: Choose an item.

Period of Performance: Click here to enter a date. to Click here to enter a date.

Functional Area: Constellation:

Award Date: Click here to enter a date.

Initial Obligated / Funded Amount:

Receiving/Funding Agency:

Receiving Bureau:

Place of Performance:

Street Address 1

Street Address 2

City / State/ Zip

Total Estimated Value (with options):

Issued using GSA Assisted Services: Choose an item.

Performance-based Contract: Choose an item.

Fair Opportunity Conducted: Choose an item.

Directed order under \$4M with options? Choose an item.

Number of Bids/Quotes/Offer:

Fair Opportunity Exception (if app): Choose an item.

Scope Review Process Utilized: Choose an item.

Ordering Contracting Officer's Name:

Ordering Contracting Officer's Email Address:

- **8(a) Stars II Task Order Awards:** Please attach this form, along with a complete copy of the Task Order, to an email addressed to S2@gsa.gov or fax to 816-823-1608

MODIFICATION AWARD - TASK ORDER INFORMATION FORM

Task Order Number:

Modification Number:

Modification Award Date: [Click here to enter a date.](#)

Modification Type: [Choose an item.](#)

Modification Description:

Period of Performance: [Click here to enter a date.](#) to [Click here to enter a date.](#)

Modification Obligated/Funded Amount:

Total Obligated/Funded Amount:

Ordering Contracting Officer's Name:

Ordering Contracting Officer's Email Address:

- **8(a) Stars II Task Order Modifications:** Please attach this form, along with a copy of the modification, to an email addressed to S2@gsa.gov or fax to 816-823-1608.

Appendix IX – Additional Guidance for Implementation of FAR 52.232-7

FAR 16.601(e) *T&M Contracts* requires contracting officers to use one of three provisions in solicitations contemplating the use of T&M or LH type contracts. To determine which provision is appropriate for a given order, ordering contracting officers (OCO) should answer the following questions:

1. Does my requirement meet the FAR definition for a commercial item?

If yes, use FAR 52.216-31 *T&M/LH Proposal Requirements—Commercial Item Acquisition*. As the title of the provision implies, FAR 52.216-31 is used for commercial item acquisitions. In this scenario, an offeror must specify separate fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit for each category of labor to be performed by the offeror subcontractors, and or divisions, subsidiaries, or affiliates of the offeror under a common control.

2. If my requirement doesn't meet the FAR definition for a commercial item, is adequate price competition expected?

If adequate price competition is expected, use FAR 52.216-29 *T&M/LH Proposal Requirements—Non Commercial Item Acquisition with Adequate Price Competition*. As the title of the provision implies, FAR 52.216-29 is used for noncommercial item acquisitions when the OCO anticipates adequate price competition. FAR 15.403-1(c) provides the accepted standards for what constitutes adequate price competition.

In this scenario and pursuant to FAR 52.216-29(c), the offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit using:

- (1) Separate rates for each category of labor to be performed by each subcontractor, the offeror, and for each category of labor to be transferred between divisions, subsidiaries, or affiliates of the offeror under a common control;
- (2) Blended rates for each category of labor to be performed by the offeror including labor transferred between divisions, subsidiaries, affiliates of the offeror under a common control, and all subcontractors; or
- (3) Any combination of separate and blended rates for each category of labor to be performed by the offeror, affiliates of the offeror under common control, and subcontractors.

NOTE: If authorized by ordering agency procedures, FAR 16.601(e) permits contracting officers to amend the provision to make mandatory one of the three approaches described above.

NOTE: For the Department of Defense, pursuant to FAR 52.216-29 with DFARS 252.216-7002, Alternate A, the offeror is required to only provide separate loaded hourly labor rates for prime contractor labor, each subcontractor, and/or each division, subsidiary, or affiliate. The offeror must specify whether each loaded hourly labor rate applies to the prime contractor, each subcontractor, and/or each division, subsidiary or affiliate.

3. My requirement doesn't meet the FAR definition for a commercial item and I don't expect adequate price competition. Which provision do I use?

Use FAR 52.216-30 *T&M/LH Proposal Requirements—Non Commercial Item Acquisition without Adequate Price Competition*. As a reminder, FAR 15.403-1(c) provides the accepted standards for what constitutes adequate price competition. In this scenario, the offeror must specify separate fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit for each category of labor to be performed by the offeror, each subcontractor, and each division, subsidiary, or affiliate of the offeror under a common control.

Appendix X – Order Size Re-representation

Earning socioeconomic credit

Quality of service delivery and *socioeconomic public policy* (e.g. small business goals/socioeconomic credit) are key reasons why government customers use STARS II. *Quality of service delivery* is assured by the evaluation process required of industry partners to win a position on the GWAC, and also by the flexible customer-controlled order evaluation and award process during which customers control evaluations techniques designed to select an industry partner to fulfill their mission objectives.

In support of *socioeconomic public policy*, all industry partners on the GWAC were duly recorded as small business concerns in FPDS-NG at GWAC award, making them *small businesses on the GWAC* – a term of art that is beneficial for customers to know. However, as time passes, circumstances sometimes change for an industry partner whereby it is no longer considered a small business concern in general, and more limited circumstances can make an industry partner no longer considered a small business concern on a federal contract, whereupon the industry partner no longer provides any 8(a) credit for new orders.

This matters, because in order to award an order to a *small business on the GWAC that provides 8(a) credit for new orders*, the selected industry partner must not have had a change in circumstances to its small business status resulting in it becoming *other than a small business on the GWAC*.

What circumstances lead to a STARS II industry partner becoming *other than a small business on the GWAC*?

- 1) Merger or acquisition with or without novation - an immediate trigger that requires re-representation on STARS II within 30 days, and subsequent re-coding as other than a small business concern per FAR 52.219-28 if the merged or acquired organization does not remain a small business concern.
- 2) Organic growth that, at the contract option in 2016, results in an industry partner not remaining a small business concern entering the 6th year of the contract, as a result of the size re-representation required for the contract option period.

How do I know if a STARS II industry partner remains a *small business on the GWAC*?

The Small Business GWAC Center maintains a list, presently in spreadsheet format, on the (name of) GWAC's website, www.gsa.gov/8astars2 under the list of contract holders tab, page left. Industry partner small business status is indicated on the list.

What regulations that govern these matters?

FAR 52.219-28

www.acquisition.gov

FAR Final Rule 74 FR 11821 & 14492

www.gpoaccess.gov

SBA Final Rule 71 FR 66434

www.gpoaccess.gov

As a government customer, what can I do to assure an order is awarded to an industry partner that is a *small business on the GWAC that provides 8(a) credit*?

Because there might be a slight lag between a company becoming other than small, and it fulfilling its obligation to report to GSA pursuant to [FAR 52.219-28](http://www.gsa.gov/8astars2), which provides for such reporting to be slightly in arrears, the Center recommends that ordering contracting officers (OCOs) not simply rely upon the information about industry partner size status maintained at www.gsa.gov/8astars2, and instead implement an Order Size Rerepresentation (OSR). Pursuant to SBA's regulatory framework, GAO and the Federal Court have upheld a procuring agency's authority to request size certifications with respect to particular orders. See *LB&B Associates, Inc. v. U.S.*, 68 Fed. Cl. 765 (Fed. Cl. 2005); *CMS Information Services, Inc.*, B-290541, Aug 7, 2002, 2002 CPD ¶ 132. Accordingly, an OCO has the discretion to require a rerepresentation of the STARS II industry partners' size status as a condition of order award.

Note: A template for implementing OSR (OSR Template) is provided later in this section.

As a STARS II industry partner, what can I do to make sure my size status is accurately represented to the federal government?

- Comply with the notification requirements of FAR [52.219-28](#)
- Ensure the STARS II web site accurately indicates company's size status on the contract.

As a STARS II industry partner, what can I do if an order solicitation isn't clear about the intention vis-à-vis OSR?

- Immediately seek clarification from the OCO about their intent for OSR
- OSR is clearly indicated if an order opportunity applies the OSR template guidance

OSR Template

An OCO may incorporate the following OSR language into order solicitations in order to require rerepresentation as a condition of order award:

Notice of Order Size Rerepresentation (OSR) at the Order Level

Offers are solicited only from STARS II industry partners that have not rerepresented as other than small in accordance with FAR 52.219-28 Post-Award Small Business Program Rerepresentation. Those STARS II industry partners having experienced an event that triggers the notification requirements contained in FAR 52.219-28(b)(1) or (b)(2), and are other than small as a result of said triggering event, are considered to be other than a small business concern for the purposes of this procurement regardless of whether the industry partner has fulfilled the rerepresentation notification pursuant to FAR 52.219-28.

Offers received from STARS II industry partners that have rerepresented their size status as other than small under the STARS II, or have had a triggering event and are not currently considered small business concerns under the STARS II, are not desired and shall be rejected as non-conforming with this OSR. The following representation must be completed and submitted with the offer.

I hereby represent that my company (check one) ____ has ____ has not rerepresented itself as other than a small business concern under STARS II, and (check one) ____ has ____ has not experienced a triggering event pursuant to FAR 52.219-28 resulting in the company being other than a small business concern regardless of if notification of that circumstance has or has not been provided pursuant to the timetable established in FAR 52.219-28.