



General Services Administration (GSA)

Federal Acquisition Service (FAS)

Fair Opportunity Process

For

Washington Interagency

Telecommunications Systems 3 (WITS 3)

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1. INTRODUCTION

1.1. Purpose

This Fair Opportunity guide provides information to federal Agencies on using the Washington Interagency Telecommunications Systems 3 (WITS 3) contract to obtain telecommunications services through the General Services Administration (GSA). This serves as a guideline to assist federal Agencies in selecting a WITS 3 contractor under the Fair Opportunity process. Agencies are expected to have conducted acquisition planning in accordance with Federal Government and their Agency procurement laws, policies, and regulations prior to the utilization of the WITS 3 contract. These guidelines are intended for use by Agency officials involved with placing orders under the WITS 3 contract, GSA officials responsible for administering the WITS 3 contract, and contractor personnel involved with providing the telecommunications services to customer Agencies. The objective of this guide is to prescribe fair opportunity procedures that can be used by all Agencies to obtain services under the WITS 3 contract. From this point forward any reference to an agency shall be interpreted as a reference to the ordering agency.

This document provides guidance on performing fair opportunity decisions under WITS 3 in accordance with the procedures established in the WITS 3 contract (Contract Section H.21).

1.2. Applicability of Fair Opportunity

To ensure that all contractors on the WITS 3 contract receive fair consideration for a service order, the Agencies will utilize the Fair Opportunity Process for the placement of all WITS 3 orders, including initial WITS 3 requirements (i.e., requirements that are transitioning from the WITS 2001 contract to WITS 3). The fair opportunity process is mandated by 41 United States Code (USC) § 253 and implemented in FAR Section 16.505. The Agency's order placement decision may be based solely on price or some combination of price and non-price related factors.

Orders may be issued without the fair opportunity process whenever circumstances warrant the exercise of any exception set forth in FAR Section 16.505(b)(2), (Attachment 3). However, GSA expects the vast majority of orders to be placed via the fair opportunity process. The Agency may have additional requirements for use of an exception to the fair opportunity process. Under those circumstances, the Agency or an Agency conducting the fair opportunity process on behalf of another Agency must meet the Agency's additional requirements.

2. WITS 3 ORDERING PROCESS OVERVIEW

2.1. WITS 3 Contract Overview

The WITS 3 Contract is designed to allow Agencies to define their service requirements, select a WITS 3 contractor, and place an order with the selected contractor in accordance with the terms of the contract.

The WITS 3 contract offers fixed priced Contract Line Item Numbers (CLINs). Additional CLINs may need to be established to accommodate Agency specific requirements that

fall within the scope of the contract. Ordering services off the contract can be accomplished through a standard process that will not require a SOW or a modification of the contract. Agency specific service orders may require a SOW and subsequent modification of the contract. GSA is responsible for implementing the contract modification process.

The WITS 3 ordering flow supports two types of processes –a standard process and a Statement of Work (SOW) process. If the services can be accommodated solely by fixed price CLINs and a design solution is not required, then in most instances the Agency can proceed with the standard process as described in Section 4.1. If the Agency service requirements require a design solution and/or relate to Agency specific services, the Agency prepares a SOW as described in Section 4.2.

2.2. WITS 3 Pricers

GSA will provide the customer Agencies and the WITS 3 contractors the WITS 3 Pricers Tool to facilitate the ordering process and to enable the effective management of market research, fair opportunity decisions, ordering, and pricing.

WITS 3 Pricers provide access to the contract prices for available WITS 3 services. The WITS 3 Pricers provides the capability to compare unit prices at the CLIN level for the contractors supporting the WITS 3 Contract. Subject to access controls, users may view, edit, update, and download price data to support a number of functions. The capabilities of the WITS 3 Pricers include:

- Pricing for all WITS 3 CLINs
- Summing of multiple price queries
- Viewing and pricing CLINs associated with a particular service

The WITS 3 Pricers will allow Agencies to evaluate the cost of WITS 3 contractor services in support of the Fair Opportunity process. When prices are listed for both contractors in the WITS 3 Pricer and price is the only determining factor, an award decision can be made based solely on the utilization of the WITS 3 Pricer. Processes will be in place to ensure that the WITS 3 Pricers contain the most current information on the prices of WITS 3 services. To ensure that Agencies are receiving the best available pricing, it is strongly recommended that Agencies request prices directly from the WITS 3 Contractors.

The WITS 3 Public Pricer can be found at <https://publicpricer.wits3.gsa.gov/> and WITS 3 Agency Pricer can be found at <https://agencypricer.wits3.gsa.gov/>. Access to the WITS 3 Agency Pricer requires a RSA SecurID® Token. RSA SecurID® Tokens can be obtained from your Agency Transition Manager or Designated Agency Representative Administrator (DARA).

3. REQUIREMENTS DEVELOPMENT

An Agency's telecommunications requirements are driven by an Agency's mission needs and operational model. Requirements for WITS 3 ordering should be determined by

conducting a complete analysis of an Agency's current inventory of telecommunications services and its future operational needs. This analysis will determine how the WITS 3 service offerings can best meet an Agency's needs. Requirements can then be grouped in a Statement of Requirements (SOR) package and a contractor selected through the Fair Opportunity process to meet the Agency's requirements.

The steps for Requirements Development are described below.

1. **Determine Requirements:** Agencies must determine their WITS 3 service requirements as the initial step in the process, using their telecommunications services inventory and other requirements to define their service requirements.
2. **Document Requirements and Service Groups (recommended):** The SOR should contain a written list of Agency's telecommunications service requirements based on their current inventory of telecommunications services and any other known requirements. The SOR will provide a basis for determining a strategy for meeting those service requirements under the WITS 3 contract. The WITS 3 contract provides Agencies with the flexibility to define a wide variety of groupings that meet their mission needs. These groups may range from all required Agency services for local sites to a group consisting of one service for one location. They may also be based on service clusters (internet protocol services, dedicated services), technology (voice, data), geographic location (within Washington Metropolitan Region), as well as logical clusters as determined by individual Agency needs.
3. **Market Research:** Agencies are required to conduct market research for each WITS 3 acquisition. Market research can be achieved by reviewing the offerings from the WITS 3 contractors, and agencies may contact the contractors for information if desired. This market research should not be used to exclude contractors from the process or to favor one contractor over another. This process should neither be used to obtain price information not already in the contract nor to ask for detailed design solutions.
4. **Determine Acquisition:** Once the service requirements are developed and grouped, the Agency should determine if a SOW is required. The Agency should conduct a gap analysis to determine what requirements identified in the SOR can be met using the established CLINs in the WITS 3 contract, what requirements require the creation of new CLINs to accommodate Agency specific requirements, and what requirements require design solutions.
5. **Determine Process Type:** Agencies are encouraged to determine how their SOR can be met using the established CLINs in the WITS 3 contracts. If all the requirements are priced in the WITS 3 contract under established fixed price CLINs (see Section 4.1 Standard Process), Agencies may then proceed to select a contractor following applicable agency acquisition procedures. If the requirements cannot be met using established fixed-price CLINs, then the SOW process will be needed to define the requirements and their respective CLINs (see Section 4.2). It is the Agencies responsibility to develop the SOW when it is needed.

4. **COMPETITION PACKAGE PREPARATION AND FAIR OPPORTUNITY DECISION**

Once Agencies have developed their SOR, they should prepare a Competition Package based on their requirements, the identified services groups, and their acquisition strategy. Preparation of the Competition Package for the standard process and SOW process are described below. If the services can be accommodated solely by fixed price CLINs, then in most instances the Agency can proceed with the standard process as described in Section 4.1 below.

4.1. **Standard Process**

The Competition Package for the standard process may consist of a simple list of all CLINs that pertain to the Agency's service requirements and may be prepared using the following steps:

Competition Package Preparation

1. **Confirm CLINs Needed:** The Agency will use the SOR to confirm that all the service requirements can be met under the WITS 3 contract using already established fixed price CLINs.

However, if Agencies require the WITS 3 contractors to submit a design solution using only existing established fixed priced CLINs, all new, or a combination of established and new CLINs, that Agency requirement would follow the SOW process as described in Section 4.2. Since this process, will require GSA involvement, Agencies are encouraged to use established fixed price CLINs to define and compete their requirements directly wherever possible. GSA will assist Agencies as necessary in defining their requirements using either established fixed priced CLINs, new CLINs, or a combination of both.

2. **Finalize Package:** Agencies will finalize the Competition Package by listing the WITS 3 CLINs that are pertinent to the service requirements. Agencies should use their best estimate to define the requirements. The projected requirements should not be skewed so as to exclude any contractor or to bias the Fair Opportunity decision. The amount of effort used should reflect the complexity and dollar amount of the Fair Opportunity decision to be made.

While price must always be a factor in method of award, an Agency may also consider non-price factors, such as, technical, management, and past performance factors in order to make a best value selection decision. If these factors are used, the Agency will determine the relative importance, or weights, of these factors in making the decision. Agencies may evaluate these criteria based on available information that includes, but is not limited to, information on the contractors web site, existing contractor award evaluation data, contract data, output from other Government order placement decision tools, other current contractor provided information (e.g., marketing materials, product specifications), and post award performance information.

- 3. Submit Requirement to the Contractors:** The Agency will inquire with each contractor to ascertain their interest in submitting a proposal. A non-interested contractor must submit a written No Bid. **ONLY when prices are listed for both contractors in the WITS 3 Pricer and price is the only factor for award, may a selection be made based solely on the utilization of the WITS 3 Pricer.**
- 4. Conduct Evaluation:** The selection of a contractor to provide services using established fixed price CLINs may be based on contract prices only. The comparative price analysis may be conducted as part of the evaluation process using the WITS 3 Pricer, if prices are listed for all contractors. This tool will allow Agencies to quickly access the prices being offered under the WITS 3 contract for the service requirements and to conduct a comparison of those prices.
- 5. Select Contractor:** The Agency will select the contractor best suited to provide the required services under WITS 3 using the Fair Opportunity decision process [or exceptions to Fair Opportunity (Contract Section H.21.1)]. The Agency will document the basis for the decision. Formal evaluation plans or elaborate rating schemes are not required for this process. However, the extent of acquisition planning and evaluation should be commensurate with the estimated value and importance of the service order.

The file documentation should include the services procured, the applicable CLINs, the pricing, any additional information on prices to support a fair and reasonable determination, and the selection decision documentation. If an exception to fair opportunity is used, the file shall also identify the basis for using the exception. File documentation should be maintained by the Agency for potential review by the GSA Contracting Office.

- 6. Contractor Notification:** Following the format of the Fair Opportunity Notification Letter (Attachment 3 or 4), the Agency shall forward the Fair Opportunity decision to the selected contractor with a courtesy copy to the GSA Contracting Office. It is strongly recommended that the Agency notify the unsuccessful offeror in writing of their decision.

The GSA Contracting Office courtesy copy of the Fair Opportunity Notification can be sent via email to Kimberly.bowie@gsa.gov The email subject matter should state "Fair Opportunity Decision (Agency Name)". If the GSA Contracting Officer courtesy copy must be mailed, please mail to following address:

Kimberly L. Bowie
U.S. General Services Administration
Federal Acquisition Service, ITC
Telecom Services
Contract Operations Division 3
Branch A (QT2A1GA)
1800 F Street, NW, 4th Floor
Washington, DC 20405

- 7. Implement the Fair Opportunity Decision:** The Agency may proceed to place the order. Prior to placing the order, the Agency Ordering Official (e.g., DAR) shall ensure that an approved procurement instrument (i.e., purchase order) has been executed.

4.2. SOW Process

Agencies are encouraged to use established fixed price CLINs as much as possible to define the services required by the Agency. In the case of unique agency requirements, a SOW is used to address services for which priced CLINs are not established in the WITS 3 contracts or a design solution is desired. The agency is responsible for developing the SOW.

Competition Package Preparation

- 1. Consult with GSA:** While the Agency has the primary responsibility for developing a SOW, GSA can provide advisory and consulting services to the Agencies that may include performing scope determinations for the SOW requirements and working with the Agencies to define the additional CLINs required for the Agency-specific requirements.
- 2. Complete Agency Developed SOW:** If the Agency elects to draft a SOW, it should include any associated enhanced performance requirements if applicable, the format for contractor submission of responses, and evaluation guidelines. The SOW should identify the services to accommodate the Agency specific requirements. Agencies should tailor the SOW and the information needed to meet their particular needs. The complexity of the SOW will depend upon the complexity of the Agency requirements.
- 3. Conduct Scope Determination (when needed):** For an Agency-developed SOW, if necessary, the GSA CO is available to determine whether the SOW requirements are within scope of the WITS 3 contract. All scope determinations will be issued in writing by the GSA CO to the Agency.

If the SOW is not within scope, GSA will work with the Agency to redefine the requirements to ensure that they fall within the scope of the WITS 3 contract.

- 4. Issue Proposal Request:** The Agency will issue the proposal request to the WITS 3 contractors after the SOW is finalized. The Agency may coordinate and conduct questions and answers with the WITS 3 contractors.
- 5. Submit Proposals:** The contractors will submit proposals to the Agency in response to the proposal request. If a contractor is not interested in submitting a proposal, he must submit a written No Bid.
- 6. Receive and Evaluate Proposals:** The Agency will evaluate the contractors' proposals using the Agency evaluation plan outlined in the proposal request.

7. **Discussion of Specifics with Contractor:** The Agency may contact the contractor(s) to discuss the services needed and other issues that impact the service offerings.
8. **Select Contractor:** Using the Fair Opportunity decision process [or exceptions to Fair Opportunity (Contract Section H.21.1)], the Agency will select the best qualified contractor proposal based on the SOW requirements and the evaluation criteria.

The Agency shall document the basis each decision, The file documentation should include the SOW, any amendments made to the original SOW, the selected contractor proposal, the recommended CLIN structure, the prices for services, any additional information on prices to support a fair and reasonable determination, and the selection decision documentation. If an exception to fair opportunity is used, the file shall also identify the basis for using the exception, File documentation should be maintained by the Agency for potential review by the GSA Contracting Office.

9. **Contractor Notifications:** The Agency shall notify the selected WITS 3 contractor on Agency Letterhead of their Fair Opportunity selection (see Attachment 3 or 4, as applicable). It is strongly recommended that the Agency notify the unsuccessful offeror in writing of their decision.

The GSA Contracting Office courtesy copy can be sent via email to Kimberly.bowie@gsa.gov. The email subject matter should state "Fair Opportunity Decision (Agency Name)". If the GSA Contracting Office courtesy copy must be mailed, please mail to following address:

Kimberly L. Bowie
U.S. General Services Administration
Federal Acquisition Service, ITC
Telecom Services
Contract Operations Division 3
Branch A (QTAGA)
1800 F Street, NW, 4th Floor
Washington, DC 20405

10. **Modify Contract:** Working with the selected contractor, GSA will modify the WITS 3 contract to incorporate any new CLIN(s). GSA will modify the contract for the selected contractor only, unless GSA deems it is beneficial to pursue adding services to the other contracts.

The Agency may place an order for any Agency-specific service only when the contract modification process is completed. Agencies will be notified when the contract modification has been awarded. Prior to placing the order the Agency Ordering Official (e.g., DAR) shall ensure that an approved procurement instrument (i.e., purchase order) has been executed.

ATTACHMENT 1: ROLES AND RESPONSIBILITIES

Roles and responsibilities for selecting a WITS 3 contractor and placing orders under the WITS 3 contracts will be shared by the Agency placing the order, GSA, and the WITS 3 contractor providing the services. Agencies will appoint a Designated Agency Representative Administrator(s) (DAR Administrator) who in turn will appoint the Designated Agency Representatives (DARs) who are authorized, in accordance with agency regulations and policies, to place orders for telecommunications services under the WITS 3 contracts. The table below describes the specific roles and responsibilities for the organizations involved in the WITS 3 ordering process.

GSA	<ul style="list-style-type: none"> • Provides general guidance on selecting a WITS 3 contractor and ordering WITS 3 services • Communicates policy and regulatory requirements to Agencies • Consults with Agencies on SOW development process, as necessary • Makes scope determination for requirements, as necessary • Executes contract modifications
WITS 3 Contractor	<ul style="list-style-type: none"> • Submits proposals in response to a proposal request • Provides all information needed to keep WITS 3 tools, databases, and processes up-to-date • Fulfills WITS 3 orders
Agency	<ul style="list-style-type: none"> • Defines requirements • Appoints DAR Administrators and DARs • Conducts Market Research, as necessary • Develops SOW and proposal request, as necessary • Issues proposal request • Conducts and documents Fair Opportunity Decision. • May hold discussions with the WITS 3 contractors on services to be ordered • Places and administers orders

ATTACHMENT 2: EXCEPTIONS TO THE FAIR OPPORTUNITY PROCESS

The Government may issue orders without the Fair Opportunity process whenever circumstances warrant the exercise of any exception set forth in 41 USC §253j. In the event that any of the Exceptions to Fair Opportunity are employed, the rationale must be thoroughly documented. If the logical follow-on exception is used, the rationale shall describe why the relationship between the initial order and the follow-on is logical (e.g., in terms of scope, period of performance, or value). In accordance with 41 USC §253j, Fair Opportunity does not apply to orders that are under \$3,500, although to the extent practicable, such micro-purchases shall be distributed equitably among qualified suppliers. Fair Opportunity also does not apply to service orders above \$3,500 where the Contracting Officer determines that:

Examples of Fair Opportunity Exceptions

Exception Provided for by 41 USC §253j [abbreviated description]	Examples of Delivery or Task Order Types that Qualify As Exceptions
Unusual urgency that would lead to unacceptable delays	Natural disaster or other emergency needs Military/mobilization needs Immediate short-term need arising on short notice
Only one capable contractor	Only one contractor offers service Only one contractor offers service to locations needed Only one contractor can demonstrate that it is capable of providing service as required by the user or to required locations
Economy, efficiency and logical follow-on to an order already issued under Fair Opportunity	Orders associated with any moves, additions, changes, or similar needs Incremental orders for the same or a new service to locations where service already exists or has been ordered Orders placed to minimize inefficiencies or additional costs that would result from introducing multiple maintenance, operations, training, network management, or other support systems Orders placed to augment or maintain the engineering and operational integrity of established telecommunications capability
Meet a minimum revenue Guarantee (MRGs)	Self-explanatory

ATTACHMENT 3: SAMPLE FAIR OPPORTUNITY NOTIFICATION LETTER

Agency Letterhead

Date

[Name and Addresses for WITS 3 Contractors are shown below.]

Alice Chappell
Contracts Manager, Government Markets
Level 3 Communications, Legal Department
7900 Westpark Dr, Suite T1200
McLean, VA 22102
Level 3 Communications

Sherelle Watkins
Senior Contracts Manager
Verizon Federal, Inc.
13100 Columbia Pike
Silver Spring, MD 20904

Dear Ms. *[fill in name]:* _____

As the designated Contracting Officer for the *(enter the Agency/Bureau Name and Agency Bureau Code here)*, I would like to take this opportunity to advise you of our selection of *(WITS 3 Contractor Name)* under WITS 3 Contract *(enter number here)* as our preferred provider for the following WITS 3 services:

[Please list the WITS 3 services to be procured based on the Statement of Work or Statement of Requirements. See Attachment 5 for a list of the available WITS 3 services.]

Pursuant to this Fair Opportunity Notification Letter, I hereby certify that funding for orders associated with this notification will be obligated, prior to order issuance, in accordance with Federal Government and (Agency Name) procurement laws, policies, and regulations. _____

Should you have any questions regarding this notification, please contact *(enter POC name, phone number and/or e-mail here)*.

Sincerely,

Contracting Officer

ATTACHMENT 4: SAMPLE EXCEPTION TO FAIR OPPORTUNITY NOTIFICATION LETTER

Agency Letterhead

Date

[Name and Addresses for WITS 3 Contractors are shown below.]

Alice Chappell
Contracts Manager, Government Markets
Level 3 Communications, Legal Department
7900 Westpark Dr, Suite T1200
McLean, VA 22102
Level 3 Communications

Sherelle Watkins
Senior Contracts Manager
Verizon Federal, Inc.
13100 Columbia Pike
Silver Spring, MD 20904

Dear Ms. *[fill in name]:*

As the designated Contracting Officer for the *[enter the Agency/Bureau Name and Agency Bureau Code here]* I would like to take this opportunity to advise you of our selection of *[WITS 3 Contractor Name]* under WITS 3 Contract *[enter number here]* as our preferred provider for the following acquisition:

[Please list the WITS 3 services to be procured based on the Statement of Work or Statement of Requirements. See Attachment 5 for a list of the available WITS 3 services.]

Please be advised that the fair opportunity exception *[identify specific exception under FAR 16.505(b)(2)]* was deemed applicable and employed for this acquisition.

*Pursuant to this Fair Opportunity Notification Letter, I hereby certify that funding for orders associated with this notification will be obligated, prior to order issuance, in accordance with Federal Government and *[Agency Name]* procurement laws, policies, and regulations.*

Should you have any questions regarding this notification, please contact *[enter POC name, phone number and/or e-mail here]*.

Sincerely,

Contracting Officer

ATTACHMENT 5: LIST OF WITS 3 SERVICES

The two defined service groups on the WITS 3 Contract are voice services and data services along with related technical support and customer premises equipment (CPE).

The WITS 3 Services and Products are as follows (but not limited to):

Voice Services (VS)

- WITS 3 Lines
- WITS 3 Trunks
- CPE and Technical Support
- Voice over Internet Protocol (VoIP)
- Cloud Services (CLS)

Data Services (DS)

- Circuit Switched Data Service (CSDS)
- Dedicated Transmission Service (DTS)
- Teleconferencing Service (TS)
- Frame Relay Service (FRS)
- Asynchronous Transfer Mode Service (ATMS)
- Dark Fiber Service (DFS)
- Gigabit Ethernet Service (GES)
- Internet Access Service (IAS)
- CPE and Technical Support
- Cloud Services (CLS)

Service descriptions can be found in the WITS 3 Contract Section C.