



**FAR FACTS**  
**SEASON TEN, EPISODE FOUR**  
**FAR PARTS 7, 10, & 11**

1. Agencies are required to perform market research and acquisition planning for **ALL** acquisitions. **FAR 7.102(a)**.
2. Market research and acquisition planning is required to help Contracting Officers determine, among other things, whether the Government should/can use (i) commercial items, (ii) full and open competition, (iii) fixed price contracts and (iv) pre-existing contracts (including inter-agency or intra-agency contracts) to best meet the Government procurement needs. **FAR 7.102(a)(1)-(4); FAR 10.001(a)(3)**.
3. Acquisition plans for other than fixed priced contracts must be approved and signed by a procurement official at least one level above the contracting officer. **FAR 7.103(j)**.
4. Acquisition plans should “begin as soon as the agency need is identified” and preferably well in advance of the fiscal year in which the contract will be executed. **FAR 7.104(a)**.
5. The “acquisition planner” does not need to be the assigned Contracting Officer.
6. The instructions for completing a proper acquisition plan are set forth in **FAR 7.105**.
7. There are 13 key milestones that occur during an acquisition. **FAR 7.105(b)(21)**.
8. An “inherently governmental function” means a function that is so intimately related to the public interest as to mandate performance by a Government employee. **FAR 2.101**.
9. The Federal Government is prohibited from executing contracts for the performance of inherently government functions. **FAR 7.503(a)**.
10. Agency determinations as to whether a function is or is not an “inherently governmental function” are reviewable by the Office of Management and Budget. **FAR 7.503(b)**.
11. A list of services “generally” not considered to be inherently governmental functions can be found at **FAR 7.503(d)**.

12. A list of excellent Government market research tools is set forth at **FAR 10.002(b)(2)**.
13. Certain contracts issued by the Government may require contractors to perform market research to find commercial item subcontractors to fulfill the needs of the Government. **FAR 10.003; FAR 52.210-1**.
14. To the fullest extent practicable, the Government should give potential offerors the opportunity to comment on agency requirements or to recommend application or tailoring of requirements documents and alternative procurement approaches during the pre-solicitation phase of a procurement. **FAR 11.002(c)**.
15. The Government's use of "performance specifications" is preferred over "design specifications". **FAR 11.104(a)**.
16. As a general rule, the Government is not permitted to establish a requirement for a particular brand name product, or a feature of a product peculiar to one manufacturer. **FAR 11.105**. The establishment of a brand name "or equivalent" requirement as established at **FAR 11.104**, however, is permissible.
17. If a delivery schedule is based on the date of the contract, the Contracting Officer is required to provide the contractor actual written notice of award, acceptance of the proposal or other contract document no later than the date of the contract. **FAR 11.403(c)**.
18. Delivery schedules that are unnecessarily short or difficult to achieve will unnecessarily (i) restrict competition, (ii) reduce small business participation, and (iii) lead to higher prices. **FAR 11.401(a)**.
19. The use of a liquidated damages clause should be limited to those contract where timely delivery is critically important to the Government's mission and the damages that would be incurred by the Government as a result of the delay cannot reasonably be calculated. **FAR 11.501(a)**.
20. Contracting officers are required to take all reasonable steps to mitigate liquidated damages (i.e., Government should not delay in moving to a termination for default process vs. assessing multiple liquidated damages claims when doing so will prevent excess losses to the contractor). **FAR 11.501(c)**.
21. The Government's Defense Priorities and Allocation System (DPAS) is based upon a Department of Commerce regulation. **FAR 11.600**.
22. The application of DPAS is limited to contractor who offer or provide certain enumerated products or services deemed critical to our nation's national security, emergency

preparedness and energy requirements. The list of affected products and services can be found at 15 CFR 700. **FAR 11.600.**

23. Contracting officers are required to place contractors on actual notice if the products or services acquired are subject to DPAS and assign an appropriate priority rating. **FAR 11.604; FAR 52.211-14; FAR 52.211-15.**
24. A request for a rated order item will always take precedence over requests for an unrated item and must be fulfilled first. **FAR 11.603(a).**
25. There are two levels of priority for rated orders established by DPAS, identified as “DO” and “DX”. A “DX” rated order will always take precedence over a “DO” rated order and must be fulfilled first. **FAR 11.603(a).** A good mnemonic device to remember this fact is “X” over “O” and “O” over “No!”