

SEC. 3. The Administrator of General Services, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration, in coordination with the Office of Federal Procurement Policy, shall amend the Federal Acquisition Regulation, 48 C.F.R. 1, within 180 days of the date of this order to further the purposes of this order.

WILLIAM J. CLINTON.

**§ 3702. Sealed bids**

(a) OPENING OF BIDS.—Sealed bids shall be opened publicly at the time and place stated in the solicitation.

(b) CRITERIA FOR AWARDING CONTRACT.—The executive agency shall evaluate the bids in accordance with section 3701(a) of this title without discussions with the bidders and, except as provided in section 3701(b) of this title, shall award a contract with reasonable promptness to the responsible source whose bid conforms to the solicitation and is most advantageous to the Federal Government, considering only price and the other price-related factors included in the solicitation.

(c) NOTICE OF AWARD.—The award of a contract shall be made by transmitting, in writing or by electronic means, notice of the award to the successful bidder. Within 3 days after the date of contract award, the executive agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3770.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3702(a) .....	41:253b(c) (1st sentence).	June 30, 1949, ch. 288, title III, §303B(c), as added Pub. L. 98–369, title VII, §2711(a)(2), July 18, 1984, 98 Stat. 1179; Pub. L. 103–355, title I, §§1061(c)(2), 1063(a), Oct. 13, 1994, 108 Stat. 3267, 3268.
3702(b) .....	41:253b(c) (2d sentence).	
3702(a) .....	41:253b(c) (3d, last sentences).	

**§ 3703. Competitive proposals**

(a) EVALUATION AND AWARD.—An executive agency shall evaluate competitive proposals in accordance with section 3701(a) of this title and may award a contract—

(1) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

(2) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), if, as required by section 3306(b)(2)(B)(i) of this title, the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions unless discussions are determined to be necessary.

(b) LIMIT ON NUMBER OF PROPOSALS.—If the contracting officer determines that the number of offerors that would otherwise be included in the competitive range under subsection (a)(1) ex-

ceeds the number at which an efficient competition can be conducted, the contracting officer may limit the number of proposals in the competitive range, in accordance with the criteria specified in the solicitation, to the greatest number that will permit an efficient competition among the offerors rated most highly in accordance with those criteria.

(c) CRITERIA FOR AWARDING CONTRACT.—Except as otherwise provided in section 3701(b) of this title, the executive agency shall award a contract with reasonable promptness to the responsible source whose proposal is most advantageous to the Federal Government, considering only cost or price and the other factors included in the solicitation.

(d) NOTICE OF AWARD.—The executive agency shall award the contract by transmitting, in writing or by electronic means, notice of the award to that source and, within 3 days after the date of contract award, shall notify, in writing or by electronic means, all other offerors of the rejection of their proposals.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3771.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3703(a) .....	41:253b(d)(1).	June 30, 1949, ch. 288, title III, §303B(d), as added Pub. L. 98–369, title VII, §2711(a)(2), July 18, 1984, 98 Stat. 1180; Pub. L. 103–355, title I, §§1061(c)(3), 1063(b), Oct. 13, 1994, 108 Stat. 3267, 3268; Pub. L. 104–106, title XLI, §4103(b), Feb. 10, 1996, 110 Stat. 644.
3703(b) .....	41:253b(d)(2).	
3703(c) .....	41:253b(d)(3) (1st sentence).	
3703(d) .....	41:253b(d)(3) (last sentence).	

**§ 3704. Post-award debriefings**

(a) REQUEST FOR DEBRIEFING.—When a contract is awarded by the head of an executive agency on the basis of competitive proposals, an unsuccessful offeror, on written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award.

(b) WHEN DEBRIEFING TO BE CONDUCTED.—The executive agency shall debrief the offeror within, to the maximum extent practicable, 5 days after receipt of the request by the executive agency.

(c) INFORMATION TO BE PROVIDED.—The debriefing shall include, at a minimum—

(1) the executive agency’s evaluation of the significant weak or deficient factors in the offeror’s offer;

(2) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

(3) the overall ranking of all offers;

(4) a summary of the rationale for the award;

(5) in the case of a proposal that includes a commercial product that is an end item under the contract, the make and model of the item