



Acquisition & Assistance Tools



Sikes Act Training: Acquisition & Assistance Tools





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Available Tools

Assistance tools:

- Economy Act
- Cooperative Agreements (including CESUs)

Acquisition tools:

- Small purchase contracts
- Large purchase contracts (over \$100K)
- Indefinite Delivery/Indefinite Quantity (IDIQs)





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Qualitative Differences

| Assistance | Acquisition |
|--|---|
| Support or stimulation (invest) | Purchase/acquire |
| Public purpose | Good or service purchased for the awarding agency |
| Level of support | Price |
| Partnership | Buyer/seller |
| No profit or fees* | Profit allowed |
| Unilateral right to terminate by the recipient** | Unilateral right to terminate by the Government |

* DoD policy

** Government does not have the right to terminate for “material failure to comply”



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What is Assistance?

Assistance: To transfer a thing of value to carry out a public purpose of support or stimulation authorized by a law of the United States

- The principal purpose is to transfer a thing of value...to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government

Types of assistance instruments:

- Grant agreement: Substantial involvement is **NOT** expected between the agency and the recipient
- Cooperative agreement: Substantial involvement is expected between the agency and the recipient





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Substantial Involvement

Is...

- Agency direct involvement in managing the effort
- Agency review and approval before work can proceed
- Agency involvement in selecting personnel

Is not...

- Agency approval of recipient submissions prior to award (budgets, proposed equipment acquisitions, etc.)
- Normal Federal stewardship, such as site visits, program reviews, performance reporting, and financial reporting
- Unanticipated agency involvement to correct deficiencies
- Statutory requirements stated in advance





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Substantial Involvement Continued

- Substantial involvement does not include:
 - Agency approval of recipient submissions prior to award (budgets, proposed equipment acquisitions, etc.)**
 - Normal Federal stewardship, such as site visits, program reviews, performance reporting, and financial reporting
 - Unanticipated agency involvement to correct deficiencies

**NAVFAC Wash ACQ staff require CA's to be competed with all costs included in the application submission

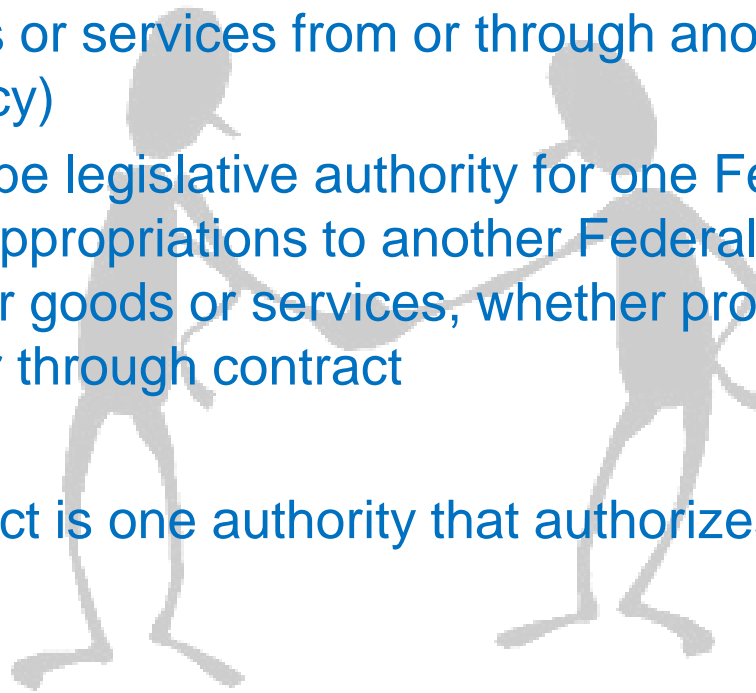


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Interagency Acquisitions

- An interagency acquisition is when an agency (requiring agency) obtains supplies or services from or through another agency (servicing agency)
 - There must be legislative authority for one Federal agency to transfer its appropriations to another Federal agency in exchange for goods or services, whether provided from in-house resources or through contract
- The Economy Act is one authority that authorizes such interagency acquisitions





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Economy Act (31 U.S.C. 1535)

- Provides general authority for agencies to obtain goods and services from other government agencies
- To place orders under this authority:
 - Requesting agency must have funding available for the procurement
 - Order should be in the best interest of the Government
 - Agency from which the goods and services are requested must be able to provide the goods or services directly
 - Requesting agency must determine that a commercial enterprise cannot provide the goods and services as conveniently or cheaply



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Economy Act Continued

- Funds available for work to be performed by Government employees expire at the same time as the underlying appropriation
- Obligations recorded under an Economy Act agreement, where the work is to be performed by government employees, must be adjusted before the end of the fiscal year to match the actual amounts obligated by the performing agency
- The performing agency to incur obligations or expenses is required to fill an Economy Act order or agreement within the period of availability of the appropriation being used
- The ordering (funding) agency must de-obligate its funds, making them no longer available for use by the performing agency

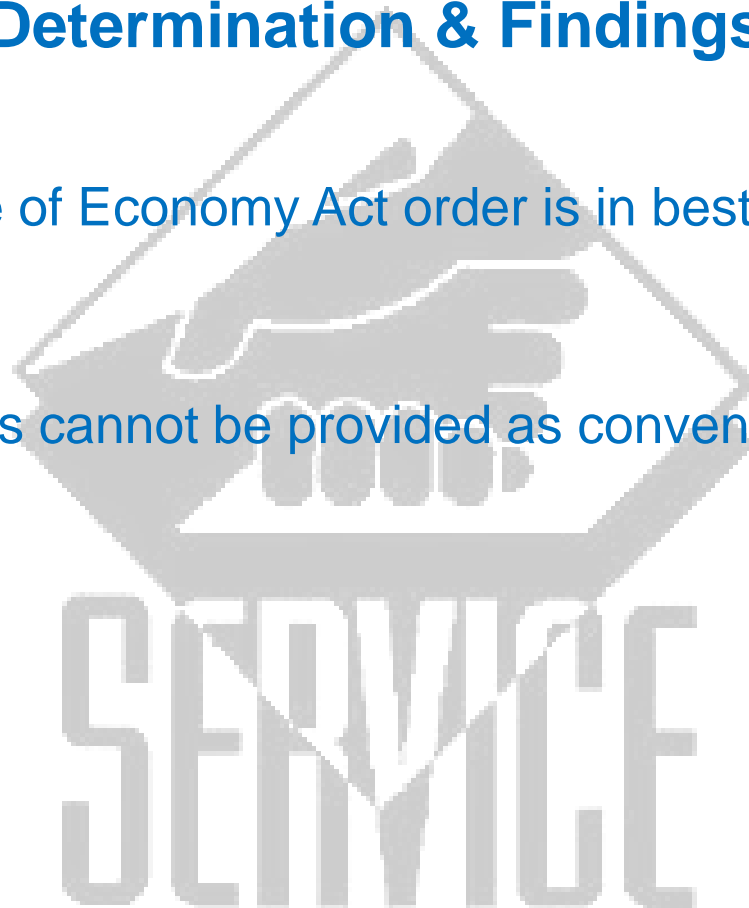


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Determination & Findings

- Explain why use of Economy Act order is in best interest of the Government
- Ordered services cannot be provided as conveniently or cheaply by private sector





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More Information on Economy Act Agreements

- BMS for Interagency & Intra-Navy Acquisitions (NAVFAC website, eTools, BMS, S-17.1.7 Interagency & Intra-Navy Acquisitions)
- Includes a template for Determination and Finding Interagency Acquisition
- NAVFAC Inter/Intra Agency Transaction Approval Matrix



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Cooperative Agreements

Purpose:

- To transfer money, property, services, or anything of value to the recipient in order to support or stimulate an activity undertaken for the public good
- Assume substantial involvement between the Federal agency and the recipient during performance of the activity, establishing the agency as a “partner” during performance
- Agency “control” as might be typical of a contract is not anticipated





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Cooperative Agreements Cont...

- Federal agencies must be authorized by statute to stimulate or support an activity
- Section 670c-1 Cooperative Agreements for land management on DoD installations
 - (a) The Secretary of a military department may enter into cooperative agreements with states, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources on, or to benefit natural and historic research on, Department of Defense installations

<http://uscode.house.gov/search/criteria.shtml>



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Cooperative Agreement Authority

- Authorized by 16 U.S. Code Sect 670c-1(a) - the Sikes Act
- DoDI 4715.3 Environmental Conservation
- DoD 3210.6-R DOD Grant and Agreement Regulations





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DoD Instruction 4715.03

- Conventional procurement methods, as well as cooperative agreements pursuant to section 670c-1 of the Sikes Act, may be used to accomplish work identified in installation INRMPs.
 - According to section 21.210 of title 32, CFR, the authority and responsibility for awarding grants and cooperative agreements is vested in the Head of each DoD Component that has such authority
 - Priority shall be given for the procurement of INRMP implementation and enforcement services to Federal and State agencies having responsibility for the conservation or management of fish and wildlife in accordance Sikes Act Section 670a(d)



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DoD Instruction 4715.03

- DoD installations may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources or conservation research on or off DoD installations.
- If pertinent to the mission, DoD installations may enter into interagency agreements with other Federal agencies for inventories, monitoring, research, minor construction and maintenance, public awareness, natural resources program support, conservation law enforcement, and other work that supports the DoD conservation program in accordance with the Economy Act (Section 1535-1536 of title 31, U.S.C).



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Statutory Authority

- Federal agencies must be authorized by statute to stimulate or support an activity
- This statutory authority from Congress must exist either in broad legislation or in a program-specific statute

Example: Sikes Act, Sec. 103a. 16 U.S.C. 670c–1A

- The Secretary of a military department may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources on, or to benefit natural and historic research on, Department of Defense installations



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Period of Performance

16 U.S. Code Sect 670c-1(b) Multiyear agreements:

- Funds appropriated to the Department of Defense for a fiscal year may be obligated to cover the cost of goods and services provided under a cooperative agreement entered into under subsection (a) or through an agency agreement under section 1535 of title 31, United States Code, during any 18-month period beginning in that fiscal year, without regard to whether the agreement crosses fiscal years

2002 DoD Policy Memo:

- “This authorization facilitates the execution of seasonal conservation projects that are funded through cooperative agreements. The terms of Section 103a authorize the obligation of current fiscal year funds under the provisions of a cooperative agreement for 18 months from the date that the cooperative agreement is executed. DOD Components should ... convey the authority to obligate funds beyond the current fiscal year.”



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Competition

DoD GAR Part 22, Subpart C:

- It is DoD policy to maximize the use of competition in the award of Cooperative Agreements
- Competitive procedures include:
 - Publicly disseminated notice to prospective proposers in the form of either a funding opportunity announcement or Broad Agency Announcement (RDT&E funds) or a specific notice distributed to at least two eligible proposers
 - Impartial review of proposals using the evaluation method and selection criteria described in the publicly disseminated or specific notice

http://www.dtic.mil/whs/directives/corres/pdf/32106r_041398/part22.pdf



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Governing Regulations

DODGAR Part 22:

- Award and Administration of Grants and Cooperative Agreements

Circular A-102 & DODGAR Part 33:

- Grants and Cooperative Agreements with State and Local Governments

Circular A-110 & DODGAR Part 32:

- Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations

DODGAR Part 34:

- Administrative Requirements For Grants And Agreements With For-Profit Organizations

<http://www.dtic.mil/whs/directives/corres/html/32106r.htm>

<http://www.whitehouse.gov/omb/circulars/index.html>



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What are CESUs?

- Government/university partnerships based on university campuses, organized into a national network
- Cooperative, involving several agencies and multiple universities
- Ecosystem studies include biological, physical, social and cultural sciences
- Provide research, technical assistance, and education for natural and cultural resource managers

<http://www.cesu.psu.edu/>





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Basic Strategy for CESUs

- Each CESU competitively established under a single cooperative agreement
- Universities provide space, faculty expertise, students, and educational services
- Agencies provide scientists and project funds
- Individual scientists supervised by their participating agency
- Oversight of support and project funds by participating agency
- Agencies and universities collaborate on projects
- Network led by national CESU Council





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CESU Objectives

- Provide resource managers with high-quality scientific research, technical assistance, and education
- Deliver research and technical assistance that is timely, relevant to resource managers, and needed to develop and implement sound adaptive management approaches
- Ensure the independence and objectivity of research
- Create and maintain effective partnerships among Federal agencies and universities to share resources and expertise
- Take full advantage of university resources while benefiting faculty and students
- Encourage professional development of Federal scientists
- Manage Federal science resources efficiently



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Key Elements of Each CESU

- Host university
- Partner institutions (at least 1 minority institution)
- Multiple Federal agencies
- Role and mission statement
- Managers committee
- Strategic plan and annual work plans
- Each CESU is competitively established under a single cooperative agreement. The difference between “other Sikes Act” CAs and a CESU CAs is how they are competed.

Cooperative
Ecosystem
Studies Units
Network





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**There are 17 CESUs – DoD is a member of 15 CESUs.
As of March 2012, DoD has joined the following CESUs:**

- Californian
- Chesapeake Watershed
- Colorado Plateau
- Desert Southwest
- Great Lakes-Northern Forest
- Great Plains
- Great Rivers
- Gulf Coast
- Hawaii-Pacific Islands
- North and West Alaska
- Pacific Northwest
- Piedmont-South Atlantic Coast
- Rocky Mountain
- Southern Appalachian Mountain
- South Florida/Caribbean

** Our request to join Great Basin was declined. There are no plans to join North Atlantic.*

Cooperative Ecosystem Studies Units



Pacific Northwest

CANADA

U.WA

U.MT

Rocky Mountains

U.MN

Great Lakes - Northern Forest

U.VI

North Atlantic Coast

Great Basin

U.NV

Great Plains

U.NE

U.MD

Chesapeake Watershed

Californian

U.CA

Colorado Plateau

U.NA

U.MO

Great Rivers

Southern Appalachian Mountains

U.TN

Piedmont - South Atlantic Coast

Desert Southwest

U.AZ

Gulf Coast

U.GA

MEXICO

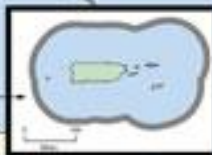
TAMU

U.Miami



• Host university

South Florida - Caribbean





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CESU Cost and Competition

- CESU Fringe & Administration cost rate 17.5% beginning 1 May 2004 (still in effect).
- Competition through the issuance of a Request for Statement of Interest (RSOI). Widespread dissemination of the RSOI obtained by posting the RSOI on the website maintained by the host university.
- Announcement material (e.g. RSOI) shall be available to members of the CESU community for a 30 days (NAVFAC requirement).
- RSOI can be general or specific. Responses can be requested as pre-proposals or full proposals.



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4 CESUs were awarded by NAVFAC in FY12

NAVFAC Marianas

- University of Guam (Hawaii Pacific Islands CESU); Conservation and Management of Micronesian Cycads (\$88,636.00).
- University of Guam (Hawaii Pacific Islands CESU); Candidate species surveys (\$348,694.00).

NAVFAC Atlantic

- Southern Appalachian CESU; Demographic and Population Response of Red-cockaded Woodpeckers (\$120,000.00).
 - California CESU; Management and Research for Headstarting Agassiz's Desert Tortoises (*Gopherus agassizii*). Total obligated for this Cooperative Agreement is = \$100,000.00 base award + four option years (\$152,340, \$165,815, \$175,322, \$185,365).



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NAVFAC HQ signed 2 CESU Cooperative Agreements in FY11

- MBP Peer Review and Strategic Implementation Plan
Final Negotiated Cost = \$1,059,998.00.
 - Of that \$111,073.00 was F&A (17.5%). If we had not gone through the CESU but still awarded to UOG their federally approved F&A rate is 57% (salaries only).
 - That translates to \$364,896.90. The cost savings...**\$253,823.90!**
- Rota Mariana Fruit Bat CA
Final Negotiated Cost = \$198,172.00.
 - Of that \$29,515.00 was F&A (17.5%). The non-CESU federally approved F&A rate for the University of Montana varies depending on whether the work is on or off campus.
 - At 29% that translates to \$57,469.88; and at 42% it is \$83,232.24.
 - The cost savings here is a low of **\$27,954.88** and a high of **\$53,717.24!**



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FEES FOR CONTRACT MANAGEMENT US Army Corps of Engineers Fort Worth

| Initial Award (Contract Amount) | Fort Worth District Fee (With No Competition/With Competition) |
|--|---|
| Less than \$50,000 | \$4,000/\$4,500 |
| \$50,000-\$250,000 | \$5,000/\$5,500 |
| Greater than \$250,000 | \$6,000/\$6,500 |

* The above fee structure assumes administrative costs of USACE with bimonthly invoicing for the first year of a project.



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CESU Resources

- BMS Process B-7.9 Sikes Act Cooperative Agreements – *submitted CAR (10/4/11) to reflect CESU competition requirements.*
- BMS Process S-17.5.1.1 Pre-Award and Award of *Single Source Cooperative Agreements and Grants* – *submitted CAR (10/4/11) requesting clarification on use of competition.*
- BMS Process S-17.5.1.2 Post-Award Administration for Cooperative Agreements
- Regional Contracts web address has additional info and samples:
 - https://portal.navfac.navy.mil/portal/page/portal/aq/aq_sw/regconts/env_conts:grants
- BMS https://portal.navfac.navy.mil/portal/page/portal/navfac_bms



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Procurement Contracts

Purpose:

- To acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government

Contract types available:

- Fixed-Price Contracts
- Cost-Reimbursement Contracts
- Incentive Contracts
- Indefinite-Delivery Contracts
- Time-and-Materials, Labor-Hour, and Letter Contracts
- Agreements





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Types of Contracts

Fixed-Price Contracts:

- Provide for a firm price

Cost-Reimbursement Contracts:

- Provide for payment of allowable incurred costs, to the extent prescribed in the contract
- Establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the contracting officer

Incentive Contracts:

- Appropriate when a firm-fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs and with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance





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Types of Contracts Continued

Time-and-Materials, Labor-Hour, and Letter Contracts:

- Provide for acquiring supplies or services on the basis of:
 - Direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and
 - Actual cost for materials

Agreements (Blanket Purchase Agreements):

- Written instrument of understanding, negotiated between an agency or contracting activity and a contractor, that
 - Contains contract clauses applying to future contracts between the parties during its term
 - Contemplates separate future contracts that will incorporate by reference or attachment the required and applicable clauses agreed upon in the basic agreement. A basic agreement is not a contract

Indefinite-Delivery Contracts (next slide)



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Indefinite-Delivery Contracts

Provide:

- For an indefinite quantity of supplies or services during a fixed period
- Government places orders for individual requirements
- Quantity limits may be stated as number of units or as dollar values

Application:

- Used when Government cannot predetermine, above a specified minimum, the precise quantities of supplies or services that the Government will require during the contract period, and it is inadvisable for the Government to commit itself for more than a minimum quantity
- Contracting officer should use an indefinite-quantity contract only when a recurring need is anticipated



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Variations on the IDIQ

- Cost reimbursement: Rates are identified for the specialties required for each task order
 - For example: xx hours of a soil conservationist, xx hours of a senior biologist, or xx hours of admin. support
- Fixed price: Pricing based on the services provided
 - Prices are negotiated in advance
 - Prices are valid for the life of the contract
 - Services are defined up front
 - For example: 50 acres of vegetation mapping, vernal pool mapping, or purchase of materials for exotic plant control.
- Free form: Prices are NOT negotiated in advance
 - Pricing based on the scope of work submitted
 - Allows for “unique” projects or projects difficult to define in a fixed price format

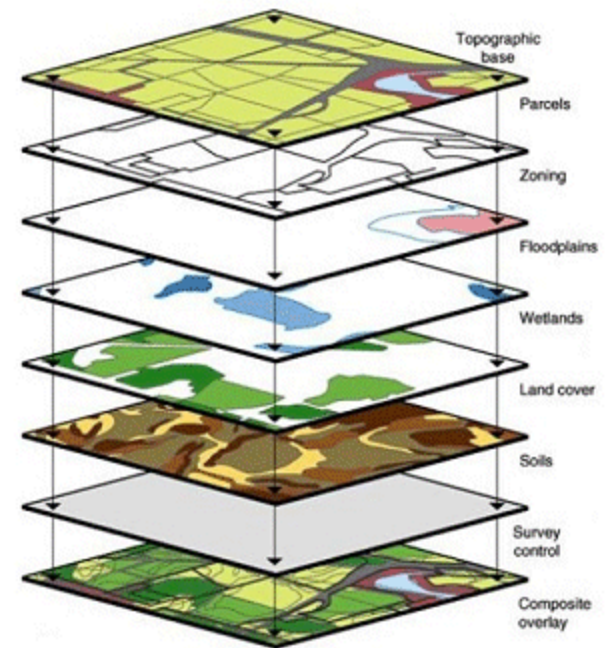


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Single Award IDIQ's

- Utilized for specialized work of an indefinite quantity
- Examples:
 - Exotic Pest Plant Eradication
 - Single award FFP IDIQ contract
 - 8(a) competitive award
 - All line items are defined and pre-priced
 - NR GPS/GIS Mapping & Analysis
 - Single award FFP IDIQ contract
 - 100% small business set-aside
 - All line items are defined and pre-priced





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Multi-Award IDIQ's

- Award of multiple contracts to multiple contractors
- Example:
 - Six contractors
 - Base year, four one-year option periods, and five one-year award-option incentive periods
 - Any type of NR work
 - Pre-priced line items and non-fixed price items (free form)
 - Contractors not required to propose on task orders
 - Award using low price or best value
 - Maximum dollar value for all contracts combined is \$25,000,000.00