

## Alert | Government Contracts



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### White House Seeks to Unlock Cost Savings Through the Better Contracting Initiative

**Go-To Guide:**

- The Better Contracting Initiative aims to improve the federal procurement system through data sharing and to prevent agencies from overpaying for common goods and services.
- The initiative would centralize data management, increase data sharing across the federal government, and enable agencies to better compare prices and negotiate terms.
- Government-wide IT software license agreements and negotiations may change how the government procures software and other IT services.

On Nov. 8, 2023, the Biden-Harris administration (the Administration) **announced** the Better Contracting Initiative (BCI), a four-pronged strategy to improve the terms, prices, and value of goods and services the federal government purchases. The Administration notes decades-long practices of federal agencies paying “inconsistent prices” when compared to market prices for common goods and services, such as IT hardware and software.

According to the Administration’s fact sheet, the BCI comprises four strategic elements:

1. *Leveraging Data Across Federal Agencies to Get Lower Prices and Better Terms.* The Office of Management and Budget (OMB) will centralize data management and improve the sharing of

billions of acquisition and data points across the federal government. Such practices, and other tools, will enable agencies to better compare prices and terms, strengthen the government's negotiating position, and yield savings. The Administration notes that contractors should expect improved market intelligence, more realistic cost estimates, and better solicitations, along with enhanced equity by enabling buyers to focus their searches on information that might support soliciting a requirement from small businesses or through the open market.

2. *Negotiating Common Enterprise-Wide Software Licenses.* The Administration highlights that the federal government spends over \$70 billion on IT products and services annually, inclusive of software licenses (prices for the same software can vary by agency up to 20%). Thus, the Administration identified that IT procurements foster opportunities for further cost savings. The government, through the General Services Administration (GSA), would negotiate government-wide IT software license agreements with a major software provider. The Administration hopes this will reduce price variance, secure more favorable terms, and capture efficiency gains.
3. *Saving Money and Avoiding Waste by Getting Contract Requirements Right the First Time.* The BCI promotes accurately capturing contract requirements to avoid costly modifications. The Administration notes that government expenditures exceed \$110 billion annually for **professional services contracts** (e.g., financial, technical, engineering, or identity protection services). Through agency facilitators and workshops, the Administration hopes to translate expert experience to better build out performance-based requirements. The Administration will sponsor the development and planning of acquisitions with GSA, and other agencies, to embed these workshops into the acquisition lifecycle, while expanding workforce development opportunities, such as through a "professional workforce certification model."
4. *Getting Better Value from Sole Source and Other High-Risk Contracts.* The BCI aims to enhance the government's negotiating position with contractors when faced with limited vendor choices. Department of Defense techniques, like peer reviews from cost experts and other acquisition professionals, along with hybrid contracts (such as contracts that combine labor-hour, cost-reimbursement, and fixed-price payment types) would be used to mitigate risks and ensure prices are not inflated when vendor options are limited.

### Key Takeaways

The Administration expects the BCI will save an estimated \$10 billion in costs. While the Administration's initiative should allow for better information sharing among agencies and prevent overpayment, implementation of the BCI remains unclear. For instance, **commentators have suggested** that such sharing of information may cause confusion among agencies if uniform definitions and standards are not applied to different types of data.

If successfully implemented, contractors may expect agencies to use more sophisticated tools when contracting by negotiation or purchasing commonly needed goods and services. Through this initiative, the GSA may play an increased role in standardizing common government-contracting needs across all federal agencies, such as through new Federal Supply Schedules. Shared information across the federal government may also be used during evaluations to inform procuring agencies on which contractors are proposing the best value to the government.

Professional service contractors may also see a change in solicitation structures that prioritize performance-based requirements. Contractors should monitor any BCI developments, as these measures may shape procurement processes, pricing, and the overall competitive landscape of the federal marketplace.

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