

Overview of the Commercial Solutions Opening (CSO) Solicitation Technique

The Commercial Solutions Opening (CSO) is a solicitation technique designed to facilitate the acquisition of innovative commercial products and services through a competitive selection process. [Section 879 of the 2017 National Defense Authorization Act \(NDAA\)](#) initially authorized CSOs as a pilot program, which [Section 803 of the 2022 NDAA](#) made permanent and codified at [10 U.S.C. 3458](#). The Department of Homeland Security (DHS) and the General Services Administration (GSA) also received authorization to establish CSO pilots under Section 880 of the 2017 NDAA. [Section 7227 of the 2023 NDAA](#) extended these pilots through September 30, 2027.

The CSO addresses the persistent issue of slow procurement by offering a flexible approach that states broad objectives, allowing diverse solutions to be proposed under Areas of Interest (Aois). CSOs may lead to either Federal Acquisition Regulation (FAR)-based or non-FAR-based contracts. Non-FAR contracts include Other Transactions (OTs) ([10 U.S.C. 4022](#)), Cooperative Research and Development Agreements (CRADAs) ([15 U.S.C. 3710a](#)), Procurements for Experimental Purposes ([10 U.S.C. 4023](#)), and bailment agreements.

DoD does not intend use CSOs to acquire well-defined services or supplies, stifle competition, or relieve requirement-holders from defining requirements. Instead, CSOs offer flexibility, enabling the adoption of commercial best practices to reduce barriers and attract new vendors, [thereby counteracting the shrinking of the Defense Industrial Base](#).

The Defense Innovation Unit (DIU) launched the first DoD CSO in 2016. [Between 2016 and 2021](#), DIU awarded 245 vendors a total of 279 CSO-related agreements with a total value of \$892.7 million. Notably, 86% of these awards went to nontraditional defense contractors—companies not subject to the cost accounting standards prescribed by [41 U.S.C. 1502](#).

Tactical Considerations

There are variations in the competitive process used for CSOs. [DIU's CSO](#) follows a three-phase process: (a) whitepaper submission, (b) interactive pitch session, and (c) collaborative requirement and proposal development. The United States Air Force (USAF) Office of Commercial and Economic Analysis [uses a two-phase process](#): (a) whitepaper submission and (b) invitation to propose. The DoD Office of Strategic Capital plans to use this two-phase process for its forthcoming CSO.

CSOs do not dictate how solutions must be developed but focus on addressing the problem. This broad approach fosters innovation but may make procurement teams uncomfortable due to the unlearning required to execute problem-focused procurements. DIU is leading efforts to train procurement professionals through its [Immersive Commercial Acquisition Program](#), but there remains a shortage of contracting officers familiar with CSOs, which can delay contract awards.

CSOs mandate fixed-price contracts, including fixed-price incentive contracts ([10 U.S.C. 3458\(c\)\(2\)](#)), which shift more risk to contractors (e.g., performance and cost risk). This reduces the usual burdens of government contracting, such as government-approved business systems, while ensuring accountability. Any appropriation type may be used to fund an action resulting from use of a CSO.

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Supplies and services acquired using CSO authority are considered commercial notwithstanding whether they meet the definition of commercial product and commercial service as defined at [10 U.S.C. 3451](#), [41 USC 103](#), and [41 USC 103a](#). [10 U.S.C. 3458\(c\)\(3\)](#).

CSOs typically accelerate procurement by bypassing detailed specification development, the FAR source selection process, and extensive reviews and approvals. Although CSOs are compared to the Broad Agency Announcement (BAA) process used for early-stage technology development, they are available for innovative solutions across all maturity levels. CSOs work best when they explicitly describe the interest of the issuing agency and specify the technical data required to meet minimum DoD requirements.

The United States Space Force (USSF) has aligned SBIR contracting with the CSO process and the Government Commercial Purchase Card (GCPC) to conduct [pitch days](#). USSF held a pitch day in 2021 where [366 proposals were reviewed resulting in funding of 46 projects within a budget of \\$2.5 million](#). The USSF leveraged the GCPC to immediately fund selected projects (i.e., funding received by the industry partner before the pitch day concluded).

Although DoD has not yet developed a department-wide Center of Excellence (CoE), the USAF maintains an extensive collection of CSO templates and examples in its own CoE on Microsoft SharePoint. The USAF CoE also contains USAF-specific techniques, tactics, and procedures (TTPs). The TTPs include discussion of seven variations of the CSO process including: (a) “open” variations where submissions can be received any time, (b) “closed” where submissions must be received by a set date and time specified in the CSO, (c) “one-step” where technical and price proposals are requested immediately, and (d) “two-step” where the initial requested submission is a whitepaper used to down-select to a limited number of potential offerors from which proposals will be requested.

DoD has published CSO implementation guidance, including limitations, procedures, and notification requirements, at [DFARS Subpart 212.70](#) and [DFARS PGI Subpart 212.70](#). GSA has published CSO implementation guidance in [Part 571 of its General Services Acquisition Manual \(GSAM\)](#) and supplemented this implementation guidance with tactical-level procedures in its [CSO Guide](#). Both may be found at the [GSA Procurement Innovation Resource Center](#). DHS has published [a program guide](#), including procedures for evaluation of proposals and receipt of necessary pre-award approvals.

While CSOs have faced few legal challenges, the [Kinematics, Inc. v. United States](#) case is notable. In this case, the Court of Federal Claims (COFC) asserted jurisdiction under the Tucker Act to consider Kinematics' protest, which alleged the CSO award decision was “irrational” and “unsupported.” Ultimately, the court deferred to the USAF’s peer review findings, upholding judicial deference to technical evaluators. COFC also reinforced that CSO award decisions deemed arbitrary, capricious, or inconsistent with law could be overturned. While this case may not indicate a trend of increasing legal challenges, it highlights the importance of compliant and thoughtful CSO execution to avoid future disputes and award delays.

Overview of the Commercial Solutions Opening (CSO) Solicitation Technique: References

The following is a list of helpful references to learn more about CSOs:

Statutes:

[Public Law 114-328](#): Section 879 of the 2017 NDAA creates the DoD Pilot; section 880 creates the DHS and GSA pilots.

[Public Law 117-81](#) Section 803 of the 2022 NDAA makes the DoD CSO authorization permanent; codifies at [10 U.S.C. 3458](#).

[Public Law 117-263](#) Section 7227 of the 2023 NDAA extends the end dates of the DHS and GSA pilots to September 30, 2027.

Guidance:

[DFARS Subpart 212.70](#) and [DFARS PGI Subpart 212.70](#): DoD Implementation Guidance

[Part 571 of the General Services Acquisition Manual \(GSAM\)](#) and the [GSA CSO Guide](#): GSA's implementation guidance

[DHS CSO Pilot Program Guide](#): DHS's implementation guidance

[Analysis of Department of Defense Commercial Solutions Openings, NPS-CM-23-228](#), Eric W. Washburn and Mary Beth Colaviot. Naval Postgraduate School Acquisition Research Program. June 2023.

The most complete analysis of CSOs currently available.

[Commercial Paths for Acquiring Innovative Technologies](#), Stephen Speciale and Danny Poskey. Defense Acquisition Magazine. May-June 2022.

Includes two fantastic tables: (a) major requirements for using CSO authority, and (b) CSOs currently published by DoD Services and Components.

Department of the Air Force Tactics, Techniques and Procedures for the DoD Commercial Solutions Opening (CSO) Program. Updated July 2024.

Available on the USAF CSO Center of Excellence. Provides recommended best practices for CSO variations, communicating with industry, funding, handling of submissions, and debriefing offerors.

[Kinemetrics, Inc. v. United States](#). United States Court of Federal Claims No. 21-1626. Reissued: September 17, 2021.