Subpart 215.3 - SOURCE SELECTION

Parent topic: Part 215 - CONTRACTING BY NEGOTIATION

215.300 Scope of subpart.

When conducting negotiated, competitive acquisitions utilizing FAR part 15 procedures, contracting officers shall follow the principles and procedures in Principal Director, Defense Pricing, Contracting, and Acquisition Policy memorandum provided at PGI 215.300 .

215.303 Responsibilities.

(b)(2) For high-dollar value and other acquisitions, as prescribed by agency procedures, the source selection authority shall approve a source selection plan before the solicitation is issued. Follow the procedures at PGI 215.303 (b)(2) for preparation of the source selection plan.

215.304 Evaluation factors and significant subfactors.

(c)(i) In acquisitions that require use of the clause at FAR 52.219-9, Small Business Subcontracting Plan, other than those based on the lowest price technically acceptable source selection process (see FAR 15.101-2), the extent of participation of small businesses to include service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns in performance of the contract shall be addressed in source selection. The contracting officer shall evaluate the extent to which offerors identify and commit to small business performance of the contract, whether as a joint venture, teaming arrangement, or subcontractor.

(A) See PGI 215.304 (c)(i)(A) for examples of evaluation factors.

(B) Proposals addressing the extent of small business performance shall be separate from subcontracting plans submitted pursuant to the clause at FAR 52.219-9 and shall be structured to allow for consideration of offers from small businesses.

(C) When an evaluation assesses the extent that small businesses are specifically identified in proposals, the small businesses considered in the evaluation shall be listed in any subcontracting plan submitted pursuant to FAR 52.219-9 to facilitate compliance with 252.219-7003 .

(ii) In accordance with 10 U.S.C. 4293, consider the purchase of capital assets (including machine tools) manufactured in the United States, in source selections for all major defense acquisition programs as defined in 10 U.S.C. 4201.

(iii) See 247.573-2(c) for additional evaluation factors required in solicitations for the direct purchase of ocean transportation services.

(iv) In accordance with section 812 of the National Defense Authorization Act for Fiscal Year 2011, consider the manufacturing readiness and manufacturing-readiness processes of potential

contractors and subcontractors as a part of the source selection process for major defense acquisition programs.

(v) Include an evaluation factor regarding supply chain risk (see subpart 239.73) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in 239.7301. For additional guidance see PGI 215.304 (c)(v).

(vi) Ensure source selections emphasize sustainment factors and objective reliability and maintainability evaluation criteria in competitive contracts for the—

(A) Technical maturation and risk reduction phase of weapon system design (see guidance at PGI 207.105 (b)(14)(ii)(*2*));

(B) Engineering and manufacturing development phase of a weapon system, including embedded software (10 U.S.C. 4328); or

(C) Production and deployment phase of a weapon system, including embedded software (10 U.S.C. 4328).

(vii) See 226.7202 for an additional evaluation factor required in solicitations when using the Demonstration Project for Contractors Employing Persons with Disabilities.

(viii)(A) When procuring supplies or services, the contracting officer shall ensure Supplier Performance Risk System (SPRS) assessments of price risk and supplier risk are considered as a part of the award decision. See 204.7603.

(B) When procuring an end product identified by a material identifier that is available as described at 204.7603, the contracting officer shall also consider SPRS assessments of item risk in the award decision.

See DoD Class Deviation 2013-O0018, Past Performance Evaluation Thresholds and Reporting Requirements, issued on September 24, 2013, which updates the DoD thresholds for evaluating a contractor’s past performance in source selections for competitive acquisitions. This deviation is in effect until incorporated into the DFARS or otherwise rescinded.

215.305 Proposal evaluation.

(a)(2) *Past performance evaluation.*

(A) When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219-8, Utilization of Small Business Concerns, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause. When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219-9, Small Business Subcontracting Plan, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause.

(B) Contracting officers shall consider an offeror's failure to make a good faith effort to comply with its comprehensive subcontracting plan under the Test Program described at 219.702-70 as part of the evaluation of the past performance.

(C) When evaluating the past performance of an offeror that is a small business concern in response to a competitive solicitation, contracting officers shall consider relevant past performance information provided for affiliates of the offeror.

215.306 Exchanges with offerors after receipt of proposals.

(c*) Competitive range*.

(1) For acquisitions with an estimated value of $100 million or more, contracting officers should conduct discussions. Follow the procedures at FAR 15.306 (c) and (d).

215.370 Evaluation factor for employing or subcontracting with members of the Selected Reserve.

215.370-1 Definition.

As used in this section—

Selected Reserve has the meaning given that term in 10 U.S.C. 10143. Selected Reserve members normally attend regular drills throughout the year and are the group of Reserves most readily available to the President.

215.370-2 Evaluation factor.

In accordance with Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163), the contracting officer may use an evaluation factor that considers whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. See PGI 215.370-2 for guidance on use of this evaluation factor.

215.370-3 Solicitation provision and contract clause.

Use the clause at 252.215-7006, Use of Employees or Individual Subcontractors Who Are Members of the Selected Reserve, in solicitations and resulting contracts that include an evaluation factor considering whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve.

215.371 Only one offer.

215.371-1 Policy.

It is DoD policy, if only one offer is received in response to a competitive solicitation—

(a) To take the required actions to promote competition (see 215.371-2); and

(b) To ensure that the price is fair and reasonable (see 215.371-3) and to comply with the statutory requirement for certified cost or pricing data (see FAR 15.403-4).

215.371-2 Promote competition.

Except as provided in sections 215.371-4 and 215.371-5 —

(a) If only one offer is received when competitive procedures were used and the solicitation allowed fewer than 30 days for receipt of proposals, the contracting officer shall—

(1) Consult with the requiring activity as to whether the requirements document should be revised in order to promote more competition (see FAR 6.502(b) and 11.002); and

(2) Resolicit, allowing an additional period of at least 30 days for receipt of proposals; and

(b) For competitive solicitations in which more than one potential offeror expressed an interest in an acquisition, but only one offer was ultimately received, follow the procedures at PGI 215.371-2 .

215.371-3 Fair and reasonable price and the requirement for additional cost or pricing data.

For acquisitions that exceed the simplified acquisition threshold, if only one offer is received when competitive procedures were used and it is not necessary to resolicit in accordance with 215.371-2 (a), then the contracting officer shall comply with the following:

(a) If no additional cost or pricing data are required to determine through cost or price analysis that the offered price is fair and reasonable, the contracting officer shall require that any cost or pricing data provided in the proposal be certified if the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403-1(b)(2) through (5) does not apply.

(b) Otherwise, the contracting officer shall obtain additional cost or pricing data to determine a fair and reasonable price. If the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403-1(b)(2) through (5) does not apply, the cost or pricing data shall be certified.

(c) If the contracting officer is still unable to determine that the offered price is fair and reasonable, the contracting officer shall enter into negotiations with the offeror to establish a fair and reasonable price. The negotiated price should not exceed the offered price.

(d) If the contracting officer is unable to negotiate a fair and reasonable price, see FAR 15.405(d).

215.371-4 Exceptions.

(a) The requirements at 215.371-2 do not apply to -

(1) Acquisitions at or below the simplified acquisition threshold;

(2) Acquisitions, as determined by the head of the contracting activity, in support of contingency or humanitarian or peacekeeping operations; to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate the provision of international disaster assistance; or to support response to an emergency or major disaster;

(3) Small business set-asides under FAR subpart 19.5, set asides offered and accepted into the 8(a) Program under FAR subpart 19.8, or set asides under the HUBZone Program (see FAR 19.1305(c)), the Service-Disabled Veteran-Owned Small Business Procurement Program (see FAR 19.1405(c)), or the Women-Owned Small Business Program (see FAR 19.1505(d));

(4) Acquisitions of science and technology, as specified in 235.016(a); or

(5) Acquisitions of architect-engineer services (see FAR 36.601-2); or

(6) Acquisitions under a commercial solutions opening pursuant to subpart 212.70.

(7) Acquisitions of commercial products and commercial services using FAR part 12 procedures.

(b) The applicability of an exception in paragraph (a) of this section does not eliminate the need for the contracting officer to seek maximum practicable competition and to ensure that the price is fair and reasonable.

215.371-5 Waiver.

(a) The head of the contracting activity is authorized to waive the requirement at 215.371-2 to resolicit for an additional period of at least 30 days.

(b) This waiver authority cannot be delegated below one level above the contracting officer.

215.371-6 Solicitation provision.

Use the provision at 252.215-7007 , Notice of Intent to Resolicit, in competitive solicitations that will be solicited for fewer than 30 days, unless an exception at 215.371-4 applies or the requirement is waived in accordance with 215.371-5 .