

Subpart 14.5 - Two-Step Sealed Bidding

Parent topic: [Part 14 - Sealed Bidding](#)

14.501 General.

Two-step sealed bidding is a combination of competitive procedures designed to obtain the benefits of sealed bidding when adequate specifications are not available. An objective is to permit the development of a sufficiently descriptive and not unduly restrictive statement of the Government's requirements, including an adequate *technical data* package, so that subsequent *acquisitions* may be made by conventional sealed bidding. This method is especially useful in *acquisitions* requiring technical proposals, particularly those for complex items. It is conducted in two steps:

(a) Step one consists of the request for, submission, evaluation, and (if necessary) discussion of a technical proposal. No *pricing* is involved. The objective is to determine the acceptability of the *supplies* or services offered. As used in this context, the word "technical" has a broad connotation and includes, among other things, the engineering approach, special manufacturing processes, and special testing techniques. It is the proper step for clarification of questions relating to technical requirements. Conformity to the technical requirements is resolved in this step, but not responsibility as defined in [9.1](#).

(b) Step two involves the submission of sealed priced bids by those who submitted acceptable technical proposals in step one. Bids submitted in step two are evaluated and the awards made in accordance with [subparts 14.3](#) and [14.4](#).

14.502 Conditions for use.

(a) Unless other factors require the use of sealed bidding, two-step sealed bidding *may* be used in preference to negotiation when all of the following conditions are present:

(1) Available specifications or purchase descriptions are not definite or complete or *may* be too restrictive without technical evaluation, and any necessary discussion, of the technical aspects of the requirement to ensure mutual understanding between each source and the Government.

(2) Definite criteria exist for evaluating technical proposals

(3) More than one technically qualified source is expected to be available.

(4) Sufficient time will be available for use of the two-step method.

(5) A firm-fixed-price contract or a fixed-price contract with economic price adjustment will be used.

(b) None of the following precludes the use of two-step sealed bidding:

(1) Multi-year *contracting*.

(2) Government property to be made available to the successful bidder.

(3) A total small business set-aside (see [19.502-2](#)).

- (4) The use of a set-aside or price evaluation preference for *HUBZone* small business concerns (see [subpart 19.13](#)).
- (5) The use of a set-aside for service-disabled veteran-owned small business concerns (see [subpart 19.14](#)).
- (6) The use of a set-aside for economically disadvantaged *women-owned small business concerns* and *women-owned small business concerns* eligible under the Women-Owned Small Business Program (see [subpart 19.15](#)).
- (7) A first or subsequent production quantity is being acquired under a performance specification.

14.503 Procedures.

14.503-1 Step one.

- (a) Requests for technical proposals *shall* be synopsisized in accordance with [part 5](#). The request *must* include, as a minimum, the following:
 - (1) A description of the *supplies* or services required.
 - (2) A statement of intent to use the two-step method.
 - (3) The requirements of the technical proposal.
 - (4) The evaluation criteria, to include all factors and any significant subfactors.
 - (5) A statement that the technical proposals *shall* not include prices or *pricing* information.
 - (6) The date, or date and hour, by which the proposal *must* be received (see [14.201-6\(r\)](#)).
 - (7) A statement that-
 - (i) In the second step, only bids based upon technical proposals determined to be acceptable, either initially or as a result of discussions, will be considered for awards, and
 - (ii) Each bid in the second step *must* be based on the bidder's own technical proposals.
 - (8) A statement that-
 - (i) *Offerors should* submit proposals that are acceptable without additional explanation or information,
 - (ii) The Government *may* make a final determination regarding a proposal's acceptability solely on the basis of the proposal as submitted; and
 - (iii) The Government *may* proceed with the second step without requesting further information from any *offeror*; however, the Government *may* request additional information from *offerors* of proposals that it considers reasonably susceptible of being made acceptable, and *may* discuss proposals with their *offerors*.

(9) A statement that a notice of unacceptability will be forwarded to the *offeror* upon completion of the proposal evaluation and final determination of unacceptability.

(10) A statement either that only one technical proposal *may* be submitted by each *offeror* or that multiple technical proposals *may* be submitted. When specifications permit different technical approaches, it is generally in the Government's interest to authorize multiple proposals. If multiple proposals are authorized, see [14.201-6\(s\)](#).

(b) Information on delivery or performance requirements *may* be of assistance to bidders in determining whether or not to submit a proposal and *may* be included in the request. The request *shall* also indicate that the information is not binding on the Government and that the actual delivery or performance requirements will be contained in the invitation issued under step two.

(c) Upon receipt, the *contracting officer shall*-

(1) Safeguard proposals against disclosure to unauthorized persons;

(2) Accept and handle data marked in accordance with [15.609](#) as provided in that section; and

(3) Remove any reference to price or cost.

(d) The *contracting officer shall* establish a time period for evaluating technical proposals. The period *may* vary with the complexity and number of proposals involved. However, the evaluation *should* be completed quickly.

(e)

(1) Evaluations *shall* be based on the criteria in the request for proposals but not consideration of responsibility as defined in [9.1](#), Proposals, *shall* be categorized as-

(i) Acceptable;

(ii) Reasonably susceptible of being made acceptable; or

(iii) Unacceptable.

(2) Any proposal which modifies, or fails to conform to the essential requirements or specifications of, the request for technical proposals *shall* be considered nonresponsive and categorized as unacceptable.

(f)

(1) The *contracting officer may* proceed directly with step two if there are sufficient acceptable proposals to ensure adequate price competition under step two, and if further time, effort and delay to make additional proposals acceptable and thereby increase competition would not be in the Government's interest. If this is not the case, the *contracting officer shall* request bidders whose proposals *may* be made acceptable to submit additional clarifying or supplementing information. The *contracting office shall* identify the nature of the deficiencies in the proposal or the nature of the additional information required. The *contracting officer may* also arrange discussions for this purpose. No proposal *shall* be discussed with any *offeror* other than the submitter.

(2) In initiating requests for additional information, the *contracting officer shall* fix an appropriate

time for bidders to conclude discussions, if any, submit all additional information, and incorporate such additional information as part of their proposals submitted. Such time *may* be extended in the discretion of the *contracting officer*. If the additional information incorporated as part of a proposal within the final time fixed by the *contracting officer* establishes that the proposal is acceptable, it *shall* be so categorized. Otherwise, it *shall* be categorized as unacceptable.

(g) When a technical proposal is found unacceptable (either initially or after clarification), the *contracting officer shall* promptly notify the *offeror* of the basis of the determination and that a revision of the proposal will not be considered. Upon written request, the *contracting officer shall* debrief unsuccessful *offerors* (see [15.505](#) and [15.506](#)).

(h) Late technical proposals are governed by [15.208\(b\)](#), (c), and (f).

(i) If it is necessary to discontinue two-step sealed bidding, the *contracting officer shall* include a statement of the facts and circumstances in the contract file. Each *offeror shall* be notified *in writing*. When step one results in no acceptable technical proposal or only one acceptable technical proposal, the *acquisition may* be continued by negotiation.

14.503-2 Step two.

(a) Sealed bidding procedures *shall* be followed except that invitations for bids *shall*-

(1) Be issued only to those *offerors* submitting acceptable technical proposals in step one;

(2) Include the provision prescribed in [14.201-6\(t\)](#);

(3) Prominently state that the bidder *shall* comply with the specifications and the bidder's technical proposal; and

(4) Not be synopsisized through the *Governmentwide point of entry (GPE)* as an *acquisition* opportunity nor publicly posted (see [5.101\(a\)](#)).

(b) The names of firms that submitted acceptable proposals in step one will be listed through the GPE for the benefit of prospective subcontractors (see [5.207](#)).