

Subpart 15.6 - Unsolicited Proposals

Parent topic: [Part 15 - Contracting by Negotiation](#)

15.600 Scope of subpart.

This subpart sets forth policies and procedures concerning the submission, receipt, evaluation, and acceptance or rejection of *unsolicited proposals*.

15.601 Definitions.

As used in this subpart-

Advertising material means material designed to acquaint the Government with a prospective contractor's present *products*, services, or potential capabilities, or designed to stimulate the Government's interest in buying such *products* or services.

Commercial product or commercial service offer means an *offer* of a *commercial product* or *commercial service* that the vendor wishes to see introduced in the Government's supply system as an *alternate* or a replacement for an existing supply item. This term does not include innovative or unique configurations or uses of *commercial products* or *commercial services* that are being offered for further development and that *may* be submitted as an *unsolicited proposal*.

Contribution means a concept, suggestion, or idea presented to the Government for its use with no indication that the source intends to devote any further effort to it on the Government's behalf.

15.602 Policy.

It is the policy of the Government to encourage the submission of new and innovative ideas in response to *Broad Agency Announcements*, Small Business Innovation Research topics, Small Business Technology Transfer Research topics, Program Research and Development Announcements, or any other Government-initiated *solicitation* or program. When the new and innovative ideas do not fall under topic areas publicized under those programs or techniques, the ideas *may* be submitted as *unsolicited proposals*.

15.603 General.

(a) *Unsolicited proposals* allow unique and innovative ideas or approaches that have been developed outside the Government to be made available to Government agencies for use in accomplishment of their missions. *Unsolicited proposals* are offered with the intent that the Government will enter into a contract with the *offeror* for research and development or other efforts supporting the Government mission, and often represent a substantial investment of time and effort by the *offeror*.

(b) *Advertising material*, *commercial product or commercial service offers*, or *contributions*, as

defined in [15.601](#), or routine correspondence on technical issues, are not *unsolicited proposals*.

(c) A valid *unsolicited proposal* must-

(1) Be innovative and unique;

(2) Be independently originated and developed by the *offeror*;

(3) Be prepared without Government supervision, endorsement, direction, or direct Government involvement;

(4) Include sufficient detail to permit a determination that Government support could be worthwhile and the proposed work could benefit the agency's research and development or other mission responsibilities;

(5) Not be an advance proposal for a known agency requirement that can be acquired by competitive methods; and

(6) Not address a previously published agency requirement.

(d) *Unsolicited proposals* in response to a publicized general statement of agency needs are considered to be independently originated.

(e) Agencies *must* evaluate *unsolicited proposals* for *energy-savings performance contracts* in accordance with the procedures in 10 CFR436.33(b).

15.604 Agency points of contact.

(a) Preliminary contact with agency technical or other appropriate personnel before preparing a detailed *unsolicited proposal* or submitting proprietary information to the Government *may* save considerable time and effort for both parties (see [15.201](#)). Agencies *must* make available to potential *offerors* of *unsolicited proposals* at least the following information:

(1) Definition (see [2.101](#)) and content (see [15.605](#)) of an *unsolicited proposal* acceptable for formal evaluation.

(2) Requirements concerning *responsible prospective contractors* (see [subpart 9.1](#)), and organizational conflicts of interest (see [subpart 9.5](#)).

(3) Guidance on preferred methods for submitting ideas/concepts to the Government, such as any agency: upcoming *solicitations*; *Broad Agency Announcements*; Small Business Innovation Research programs; Small Business Technology Transfer Research programs; Program Research and Development Announcements; or grant programs.

(4) Agency points of contact for information regarding advertising, *contributions*, and other types of transactions similar to *unsolicited proposals*.

(5) Information sources on agency objectives and areas of potential interest.

(6) Procedures for submission and evaluation of *unsolicited proposals*.

(7) Instructions for identifying and marking proprietary information so that it is protected and

restrictive legends conform to [15.609](#).

(b) Only the cognizant *contracting officer* has the authority to bind the Government regarding *unsolicited proposals*.

15.605 Content of unsolicited proposals.

Unsolicited proposals should contain the following information to permit consideration in an objective and timely manner:

(a) Basic information including-

(1) *Offeror's* name and address and type of organization; *e.g.*, profit, nonprofit, educational, small business;

(2) Names and telephone numbers of technical and business personnel to be contacted for evaluation or negotiation purposes;

(3) Identification of proprietary data to be used only for evaluation purposes;

(4) Names of other Federal, State, or local agencies or parties receiving the proposal or funding the proposed effort;

(5) Date of submission; and

(6) *Signature* of a person authorized to represent and contractually obligate the *offeror*.

(b) Technical information including-

(1) Concise title and abstract (approximately 200 words) of the proposed effort;

(2) A reasonably complete discussion stating the objectives of the effort or activity, the method of approach and extent of effort to be employed, the nature and extent of the anticipated results, and the manner in which the work will help to support accomplishment of the agency's mission;

(3) Names and biographical information on the *offeror's* key personnel who would be involved, including *alternates*; and

(4) Type of support needed from the agency; *e.g.*, Government property or personnel resources.

(c) Supporting information including-

(1) Proposed price or total estimated cost for the effort in sufficient detail for meaningful evaluation;

(2) Period of time for which the proposal is valid (a 6-month minimum is suggested);

(3) Type of contract preferred;

(4) Proposed duration of effort;

(5) Brief description of the organization, previous experience, relevant *past performance*, and facilities to be used;

(6) Other statements, if applicable, about organizational conflicts of interest, security clearances, and environmental impacts; and

(7) The names and telephone numbers of agency technical or other agency points of contact already contacted regarding the proposal.

15.606 Agency procedures.

(a) Agencies *shall* establish procedures for controlling the receipt, evaluation, and timely disposition of *unsolicited proposals* consistent with the requirements of this subpart. The procedures *shall* include controls on the reproduction and disposition of proposal material, particularly data identified by the *offeror* as subject to duplication, use, or disclosure restrictions.

(b) Agencies *shall* establish agency points of contact (see [15.604](#)) to coordinate the receipt and handling of *unsolicited proposals*.

15.606-1 Receipt and initial review.

(a) Before initiating a comprehensive evaluation, the agency contact point *shall* determine if the proposal-

(1) Is a valid *unsolicited proposal*, meeting the requirements of [15.603\(c\)](#);

(2) Is suitable for submission in response to an existing agency requirement (see [15.602](#));

(3) Is related to the agency mission;

(4) Contains sufficient technical information and cost-related or price-related information for evaluation;

(5) Has overall scientific, technical, or socioeconomic merit;

(6) Has been approved by a responsible official or other representative authorized to obligate the *offeror* contractually; and

(7) Complies with the marking requirements of [15.609](#).

(b) If the proposal meets these requirements, the contact point *shall* promptly acknowledge receipt and process the proposal.

(c) If a proposal is rejected because the proposal does not meet the requirements of paragraph (a) of this subsection, the agency contact point *shall* promptly inform the *offeror* of the reasons for rejection *in writing* and of the proposed disposition of the *unsolicited proposal*.

15.606-2 Evaluation.

(a) Comprehensive evaluations *shall* be coordinated by the agency contact point, who *shall* attach or imprint on each *unsolicited proposal*, circulated for evaluation, the legend required by [15.609\(d\)](#).

When performing a comprehensive evaluation of an *unsolicited proposal*, evaluators *shall* consider the following factors, in addition to any others appropriate for the particular proposal:

- (1) Unique, innovative, and meritorious methods, approaches, or concepts demonstrated by the proposal;
 - (2) Overall scientific, technical, or socioeconomic merits of the proposal;
 - (3) Potential *contribution* of the effort to the agency's specific mission;
 - (4) The *offeror's* capabilities, related experience, facilities, techniques, or unique combinations of these that are integral factors for achieving the proposal objectives;
 - (5) The qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel critical to achieving the proposal objectives; and
 - (6) The realism of the proposed cost.
- (b) The evaluators *shall* notify the agency point of contact of their recommendations when the evaluation is completed.

15.607 Criteria for acceptance and negotiation of an unsolicited proposal.

(a) A favorable comprehensive evaluation of an *unsolicited proposal* does not, in itself, justify awarding a contract without providing for *full and open competition*. The agency point of contact *shall* return an *unsolicited proposal* to the *offeror*, citing reasons, when its substance-

- (1) Is available to the Government without restriction from another source;
- (2) Closely resembles a pending competitive *acquisition* requirement;
- (3) Does not relate to the activity's mission; or
- (4) Does not demonstrate an innovative and unique method, approach, or concept, or is otherwise not deemed a meritorious proposal.

(b) The *contracting officer* may commence negotiations on a sole source basis only when-

- (1) An *unsolicited proposal* has received a favorable comprehensive evaluation;
- (2) A justification and approval has been obtained (see [6.302-1\(a\)\(2\)\(i\)](#) for research proposals or other appropriate provisions of [subpart 6.3](#), and [6.303-2\(c\)](#));
- (3) The agency technical office sponsoring the contract furnishes the necessary funds; and
- (4) The *contracting officer* has complied with the synopsis requirements of [subpart 5.2](#).

15.608 Prohibitions.

(a) Government personnel *shall* not use any data, concept, idea, or other part of an *unsolicited proposal* as the basis, or part of the basis, for a *solicitation* or in negotiations with any other firm unless the *offeror* is notified of and agrees to the intended use. However, this prohibition does not preclude using any data, concept, or idea in the proposal that also is available from another source without restriction.

(b) Government personnel *shall* not disclose restrictively marked information (see [3.104](#) and [15.609](#)) included in an *unsolicited proposal*. The disclosure of such information concerning trade secrets, processes, operations, style of work, apparatus, and other matters, except as authorized by law, *may* result in criminal penalties under [18 U.S.C.1905](#).

15.609 Limited use of data.

(a) An *unsolicited proposal* *may* include data that the *offeror* does not want disclosed to the public for any purpose or used by the Government except for evaluation purposes. If the *offeror* wishes to restrict the data, the title page *must* be marked with the following legend:

Use and Disclosure of Data

This proposal includes data that *shall* not be disclosed outside the Government and *shall* not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate this proposal. However, if a contract is awarded to this *offeror* as a result of or in connection with the submission of these data, the Government *shall* have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in these data if they are obtained from another source without restriction. The data subject to this restriction are contained in Sheets [*insert numbers or other identification of sheets*].

(b) The *offeror* *shall* also mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(c) The agency point of contact *shall* return to the *offeror* any *unsolicited proposal* marked with a legend different from that provided in paragraph (a) of this section. The return letter will state that the proposal cannot be considered because it is impracticable for the Government to comply with the legend and that the agency will consider the proposal if it is resubmitted with the proper legend.

(d) The agency point of contact *shall* place a cover sheet on the proposal or clearly mark it as follows, unless the *offeror* clearly states *in writing* that no restrictions are imposed on the disclosure or use of the data contained in the proposal:

Unsolicited Proposal-Use of Data Limited

All Government personnel *must* exercise extreme care to ensure that the information in this proposal is not disclosed to an individual who has not been authorized access to such data in accordance with FAR [3.104](#), and is not duplicated, used, or disclosed in whole or in part for any purpose other than evaluation of the proposal, without the written permission of the *offeror*. If a contract is awarded on

the basis of this proposal, the terms of the contract *shall* control disclosure and use. This notice does not limit the Government's right to use information contained in the proposal if it is obtainable from another source without restriction. This is a Government notice, and *shall* not by itself be construed to impose any liability upon the Government or Government personnel for disclosure or use of data contained in this proposal.

(e) Use the notice in paragraph (d) of this section solely as a manner of handling *unsolicited proposals* that will be compatible with this subpart. However, do not use this notice to justify withholding of a record, or to improperly deny the public access to a record, where an obligation is imposed by the Freedom of Information Act ([5 U.S.C. 552](#)). An *offeror should* identify trade secrets, commercial or financial information, and privileged or confidential information to the Government (see paragraph (a) of this section).

(f) When an agency receives an *unsolicited proposal* without any restrictive legend from an educational or nonprofit organization or institution, and an evaluation outside the Government is necessary, the agency point of contact *shall*-

(1) Attach a cover sheet clearly marked with the legend in paragraph (d) of this section;

(2) Change the beginning of this legend to read "All Government and non-Government personnel * * *"; and

(3) Require any non-Government evaluator to agree *in writing* that data in the proposal will not be disclosed to others outside the Government.

(g) If the proposal is received with the restrictive legend (see paragraph (a) of this section), the modified cover sheet *shall* also be used and permission *shall* be obtained from the *offeror* before release of the proposal for evaluation by non-Government personnel.

(h) When an agency receives an *unsolicited proposal* with or without a restrictive legend from other than an educational or nonprofit organization or institution, and evaluation by Government personnel outside the agency or by experts outside of the Government is necessary, written permission *must* be obtained from the *offeror* before release of the proposal for evaluation. The agency point of contact *shall*-

(1) Clearly mark the cover sheet with the legend in paragraph (d) or as modified in paragraph (f) of this section; and

(2) Obtain a written agreement from any non-Government evaluator stating that data in the proposal will not be disclosed to persons outside the Government.