Subpart 215.1 - SOURCE SELECTION PROCESSES AND TECHNIQUES

Parent topic: Part 215 - CONTRACTING BY NEGOTIATION

215.101 Best value continuum.

215.101-2 Lowest price technically acceptable source selection process.

215.101-2-70 Limitations and prohibitions.

The following limitations and prohibitions apply when considering the use of the lowest price technically acceptable source selection procedures.

(a) *Limitations*.

(1) In accordance with section 813 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328) as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) (see 10 U.S.C. 3241 note prec.), the lowest price technically acceptable source selection process shall only be used when—

(i) Minimum requirements can be described clearly and comprehensively and expressed in terms of performance objectives, measures, and standards that will be used to determine the acceptability of offers;

(ii) No, or minimal, value will be realized from a proposal that exceeds the minimum technical or performance requirements;

(iii) The proposed technical approaches will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror’s proposal versus a competing proposal;

(iv) The source selection authority has a high degree of confidence that reviewing the technical proposals of all offerors would not result in the identification of characteristics that could provide value or benefit;

(v) No, or minimal, additional innovation or future technological advantage will be realized by using a different source selection process;

(vi) Goods to be procured are predominantly expendable in nature, are nontechnical, or have a short life expectancy or short shelf life (See PGI 215.101-2-70(a)(1)(vi) for assistance with evaluating whether a requirement satisfies this limitation);

(vii) The contract file contains a determination that the lowest price reflects full life-cycle costs (as defined at FAR 7.101) of the product(s) or service(s) being acquired (see PGI 215.101-2-70(a)(1)(vii) for information on obtaining this determination); and

(viii) The contracting officer documents the contract file describing the circumstances justifying the

use of the lowest price technically acceptable source selection process.

(2) In accordance with section 813 of the National Defense Authorization Act for Fiscal Year 2017, as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) (see 10 U.S.C. 3241 note prec.), contracting officers shall avoid, to the maximum extent practicable, using the lowest price technically acceptable source selection process in the case of a procurement that is predominately for the acquisition of—

(i) Information technology services, cybersecurity services, systems engineering and technical assistance services, advanced electronic testing, or other knowledge-based professional services;

(ii) Items designated by the requiring activity as personal protective equipment (except see paragraph (b)(1) of this section); or

(iii) Services designated by the requiring activity as knowledge-based training or logistics services in contingency operations or other operations outside the United States, including in Afghanistan or Iraq.

(b) *Prohibitions*.

(1) In accordance with section 814 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328) as amended by section 882 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91), contracting officers shall not use the lowest price technically acceptable source selection process to procure items designated by the requiring activity as personal protective equipment or an aviation critical safety item, when the requiring activity advises the contracting officer that the level of quality or failure of the equipment or item could result in combat casualties. See 252.209-7010 for the definition and identification of critical safety items.

(2) In accordance with section 832 of the National Defense Authorization Act for Fiscal Year 2018 (see 10 U.S.C. 4232), contracting officers shall not use the lowest price technically acceptable source selection process to acquire engineering and manufacturing development for a major defense acquisition program for which budgetary authority is requested beginning in fiscal year 2019.

(3) Contracting officers shall make award decisions based on best value factors and criteria, as determined by the resource sponsor (in accordance with agency procedures), for an auditing contract. The use of the lowest price technically acceptable source selection process is prohibited (10 U.S.C. 240f).

215.101-70 Best value when acquiring tents or other temporary structures.

(a) In accordance with section 368 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81), when acquiring tents or other temporary structures for use by the Armed Forces, the contracting officer shall award contracts that provide the best value. Temporary structures covered by this paragraph are nonpermanent buildings, including tactical shelters, nonpermanent modular or pre-fabricated buildings, or portable or relocatable buildings, such as trailers or equipment configured for occupancy (see also 246.270-2). Determination of best value includes consideration of the total life-cycle costs of such tents or structures, including the costs associated with any equipment, fuel, or electricity needed to heat, cool, or light such tents or structures (see FAR 7.105(a)(3)(i) and PGI 207.105 (a)(3)(i)).

(b) The requirements of this section apply to any agency or department that acquires tents or other

temporary structures on behalf of DoD (see FAR 17.503(d)(2)).

215.101-71 Tradeoff process when acquiring fuel for overseas contingency operations.

(a) When conducting a source selection for the acquisition of fuel that is for an overseas contingency operation and is expected to exceed the simplified acquisition threshold, the contracting officer shall consider using a tradeoff process in accordance with FAR 15.101-1 (section 843 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81)). The contracting officer should consider using the following evaluation factors in any such tradeoff process:

(1) Past performance.

(2) Cost.

(3) Anticorruption training.

(4) Anticorruption compliance.

(b) If a tradeoff process was not considered, prior to the issuance of the solicitation, the contracting officer shall justify in writing why a tradeoff process was not considered and obtain approval by an official one level above the contracting officer. This authority is not delegable. The contracting officer shall include the justification in the contract file.