PART 715—CONTRACTING BY NEGOTIATION

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Parent topic: SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

Subpart 715.3—Source Selection

715.303 Responsibilities.

715.303-70 Responsibilities of USAID evaluation committees.

(a) *Establishment and composition of USAID evaluation committees.* A technical evaluation committee shall be established for each proposed procurement. In each case, the committee shall be composed of a chair representing the cognizant technical office, a representative of the contracting office (who shall be a non-voting member of the committee), and representatives from other concerned offices as appropriate.

(b) *Technical evaluation procedures.*

(1) The contracting officer will receive all proposals and provide to the chair a listing and copies of the technical proposals and instructions for conducting the evaluation.

(2) The chair will promptly call a meeting of the committee to evaluate the proposals received. The evaluation shall be based on the evaluation factors set forth in the solicitation document.

(3) The chair shall prepare and provide to the contracting officer written documentation summarizing the results of the evaluation of each proposal, including an assessment of past performance information in accordance with (48 CFR) FAR 15.305(a)(2). The documentation shall include narrative justification of the evaluation results.

(4) The contracting officer is responsible for reviewing the documentation justifying the evaluation results to determine that it is adequate and complete. The contracting officer shall return a justification determined to be inadequate to the chair for revision.

(5) No member of the USAID evaluation committee shall hold discussions with any offeror before or during the USAID evaluation committee's proceedings, nor shall any information about the proposals be provided to anyone not on the committee without first obtaining the contracting officer's consent.

715.305 Proposal evaluation.

(a) [Reserved]

(b) A justification must be written by the contracting officer and placed in the official file to support the decision to reject all proposals and to cancel the procurement.

(c) The contracting officer may authorize release of proposals outside the Government for evaluation—

(1) When an Evaluation Assistance Contract (EAC) is required to provide technical advisory or other services relating to the evaluation of proposals; or

(2) When an individual other than a Government employee, known as a Non-Government Evaluator (NGE), is selected to serve as a member of a USAID technical evaluation committee.

(3) Prior to releasing the proposals outside the Government, the contracting officer must obtain a signed and dated agreement from each NGE and EAC employee that they will safeguard the proposals and information in the proposals and that they perceive no actual or potential conflict of interests. (An example of such agreement is provided in the ADS).

715.370 Alternative source selection procedures.

The following selection procedures may be used, when appropriate, for activities covered under Title XII of the Foreign Assistance Act of 1961, as amended.

715.370-1 Title XII selection procedure—general.

(a) *General.* The Deputy Administrator has determined, as provided in (48 CFR) AIDAR

706.302-70(b)(3)(ii) that use of this Title XII source selection procedure is necessary so as not to impair or affect USAID's ability to administer Title XII of the Foreign Assistance Act. This determination is reflected in (48 CFR) AIDAR 706.302-70(b)(4). This constitutes authority for other than full and open competition when selecting Title XII institutions to perform Title XII projects.

(b) *Scope of subsection.* This subsection prescribes policies and procedures for the selection of institutions eligible under Title XII of the Foreign Assistance Act of 1961, as amended, to perform activities authorized under Title XII.

(c) *Applicability.* The provisions of this subsection are applicable when the project office certifies that the activity is authorized under Title XII, and determines that use of the Title XII selection procedure is appropriate.

(d) *Solicitation, evaluation, and selection procedures.*

(1) Competition shall be sought among eligible Title XII institutions to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this subsection.

(2) The project office shall—

(i) Prepare selection criteria for evaluation of eligible institutions for use in preparing the source list, determining predominantly qualified sources, and selecting the contractor;

(ii) Prepare an initial list of eligible institutions considered qualified to perform the proposed activity;

(iii) Provide a statement describing qualifications and areas of expertise considered essential, a statement of work, estimate of personnel requirements, special requirements (logistic support, Government furnished property, and so forth) for the contracting officer's use in preparing the request for technical proposal (RFTP).

(iv) Send a memorandum incorporating the certification and determination required by paragraph (c) of this section, together with the information required by paragraphs (d)(2)(i) through (iii) of this section, with the “Action” copy of the requisition to the contracting officer, requesting him/her to prepare and distribute the RFTP.

(3) Upon receipt and acceptance of the project officer's request, the contracting officer shall prepare the RFTP. The RFTP shall contain sufficient information to enable an offeror to submit a responsive and complete technical proposal. This includes a definitive statement of work, an estimate of the personnel required, and special provisions (such as logistic support, Government furnished equipment, and so forth), a proposed contract format, and evaluation criteria. No cost or pricing data will be requested or required by the RFTP. The RFTP will be distributed to the eligible institutions recommended by the project office. The RFTP will be synopsized, as required by (48 CFR) FAR 5.201, and will normally allow a minimum of 60 days for preparation and submission of a proposal.

(4) Upon receipt of responses to the RFTP by the contracting officer, an evaluation committee will be established as provided for in 715.303-70.

(5) The evaluation committee will evaluate all proposals in accordance with the criteria set forth in the RFTP, and will prepare a selection memorandum which shall:

(i) State the evaluation criteria;

(ii) List all of the eligible institutions whose proposals were reviewed;

(iii) Report on the ranking and rationale therefor for all proposals;

(iv) Indicate the eligible institution or institutions considered best qualified.

(6) The evaluation committee will submit the selection memorandum to the contracting officer for review and approval.

(7) The contracting officer will either approve the selection memorandum, or return it to the evaluation committee for reconsideration for specified reasons.

(8) If the selection memorandum is approved, the contracting officer shall obtain cost, pricing, and other necessary data from the recommended institution or institutions and shall conduct negotiations. If a satisfactory contract cannot be obtained, the contracting officer will so advise the evaluation committee. The evaluation committee may then recommend an alternate institution or institutions.

715.370-2 Title XII selection procedure—collaborative assistance.

(a) *General.* (48 CFR) AIDAR 706.302-70(b)(4) provides authority for other than full and open competition when selecting Title XII institutions to perform Title XII activities.

(b) *Scope of subsection.* This subsection prescribes policies and procedures for the selection of institutions eligible under Title XII of the Foreign Assistance Act of 1961, as amended, to perform activities authorized under Title XII, where USAID has determined, in accordance with paragraph (c) of this subsection, that use of the collaborative assistance contracting system is appropriate. See (48 CFR) AIDAR appendix F (of this chapter)—Use of Collaborative Assistance Method for Title XII Activities for a more complete definition and discussion of the collaborative assistance method.

(c) *Determinations.* The following findings and determinations must be made prior to initiating any contract actions under the collaborative assistance method:

(1) The cognizant technical office makes a preliminary finding that an activity:

(i) Is authorized by Title XII; and

(ii) Should be classed as collaborative assistance because a continuing collaborative relationship between USAID, the host country, and the contractor is required from design through completion of the activity, and USAID, host country, and contractor participation in a continuing review and evaluation of the activity is essential for its proper execution.

(2) Based upon this preliminary finding, the cognizant technical office shall establish an evaluation panel consisting of a representative of the cognizant technical office as chairman, a representative of the contracting officer, and any other representatives considered appropriate by the chairman to review the proposed activity for its appropriateness under the collaborative assistance method.

(3) If supported by the panel's findings, the chairman will make a formal written determination that the collaborative assistance method is the appropriate contracting method for the Title XII activity in question.

(d) *Evaluation and selection.*

(1) Competition shall be sought among eligible Title XII institutions to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this section.

(2) The evaluation panel shall:

(i) Prepare evaluation and selection criteria;

(ii) Prepare an initial source list of eligible institutions considered qualified to perform the proposed project; and

(iii) Evaluate the list, using the evaluation criteria previously determined, for the purpose of making a written determination of the sources considered most capable of performing the project.

(3) The chairman of the evaluation panel will prepare a memorandum requesting the contracting officer to prepare a request for expressions of interest from qualified sources and setting forth:

(i) The formal determinations required by paragraph (c) of this section;

(ii) The evaluation criteria which have been determined; and

(iii) The recommended source list and the rationale therefor.

(4) The contracting officer will prepare a request for an expression of interest (REI), containing sufficient information to permit an offeror to determine its interest in the project, and to discuss the project with USAID representatives, if appropriate. The REI should include a concise statement of the purpose of the activity, any special conditions or qualifications considered important, a brief description of the selection procedure and evaluation criteria which will be used, the proposed contract format, and any other information considered appropriate. The REI will be issued to the sources recommended by the panel, and to others, as appropriate; it will be synopsized, as required by (48 CFR) FAR 5.201, and it will normally allow a minimum of 60 days for preparation of an expression of interest. Guidelines for preparation of expressions of interest are contained in attachment 1 to (48 CFR) AIDAR appendix F.

(5) The contracting officer will transmit all expressions of interest to the evaluation panel for evaluation and selection recommendation. The panel may conduct on site evaluations at its discretion, as part of the evaluation process.

(6) The chairman of the evaluation panel will prepare a written selection recommendation with supporting justification, recommending that negotiations be conducted with the prospective contractor(s) selected by the evaluation panel. The selection recommendation shall be transmitted to the contracting officer together with the complete official file on the project which was being maintained by the evaluation panel.

(7) The contracting officer will review the selection recommendation, obtain necessary cost and other data, and proceed to negotiate with the recommended sources.

Subpart 715.70—Partner Vetting

715.70 Partner vetting.

If an acquisition is identified as subject to vetting, see (48 CFR) AIDAR 704.70 for the applicable procedures and requirements.

Subpart 715.6—Unsolicited Proposals

715.602 Policy.

(a) USAID encourages the submission of unsolicited proposals that contribute new and innovative ideas that are consistent with and contribute to the accomplishment of the Agency's objectives. Potential offerors should consider the guidance in FAR 15.6 and in AIDAR 715.6 prior to preparing and submitting a formal unsolicited proposal.

(b) Unsolicited proposals will only be considered when they support USAID strategy. USAID Mission programs must be responsive to the needs of the cooperating country; projects are often designed in collaboration with the cooperating country. These factors can limit both the need for, and USAID's ability to use, unsolicited proposals.

(c) The *USAID.gov* website contains information on working with USAID and on individual Mission and Agency-wide strategies and objectives. Prospective offerors are also encouraged to review USAID's Business Forecast web page and consider responding to USAID competitive announcements published on *sam.gov* and *grants.gov*.

715.604 Agency points of contact.

(a) USAID's Industry Liaison, Bureau for Management, Office of Acquisition and Assistance, manages the receipt and evaluation of unsolicited proposals. Unsolicited proposals may be submitted via: *https://www.workwithusaid.gov/unsolicited-submissions*.

(b) Before preparing a detailed unsolicited proposal or submitting proprietary information, a prospective offeror may make preliminary contact with USAID bureaus, field missions, or other operating units to obtain information sources on USAID's strategies and objectives and other information listed in FAR 15.604 and AIDAR 715.602.