PART 2415 - CONTRACTING BY NEGOTIATION

Authority: 40 U.S.C. 121(c); 41 U.S.C. 3301-3306 and 3105; 42 U.S.C. 3535(d).

Source: 49 FR 7703, Mar. 1, 1984, unless otherwise noted.

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Parent topic: SUBCHAPTER C - CONTRACTING METHODS AND CONTRACTING TYPES

Subpart 2415.2 - Solicitation and Receipt of Proposals and Quotations

2415.203 Requests for proposals.

(a)(3) The contracting officer may limit the size of the technical and management portion of offers submitted in response to a request for proposals when the contracting officer determines that it is in the Government's best interest to do so.

2415.204 Contract format.

(e) The HCA shall be responsible for making exemptions pursuant to FAR 15.204(e).

2415.209 Solicitation provisions and contract clauses.

(a)

(1) The Contracting Officer shall insert a provision substantially the same as the provision at 2452.215-70, Proposal Content, in all solicitations for negotiated procurements expected to exceed the simplified acquisition limit. The provision may be used in simplified acquisitions when it is necessary to obtain business proposal information in making the award selection. If the proposed contract requires work on, or access to, HUD systems or applications (see the clause at 2452.239-70), the provision shall be used with its Alternate I. When the Contracting Officer has determined that it is necessary to limit the size of the technical and management portion of offers submitted by offerors, the provision shall be used with its Alternate II.

(2) The contracting officer shall insert the provision at 2452.215-71, Relative Importance of Technical Evaluation Factors to Cost or Price, in solicitations for contracts to be awarded using the tradeoff selection process (see FAR 15.101-1) expected to exceed the simplified acquisition limit.

Subpart 2415.3 - Source Selection

2415.303 Responsibilities.

(a)

(1) Except as identified in paragraph (a)(2) of this section, HUD's Chief Procurement Officer, as the Senior Procurement Executive, designates Assistant Secretaries, or their equivalent, for requiring activities as the Source Selection Authorities for selections made using the tradeoff process. Assistant Secretaries may delegate this function to other departmental officials. This designation also applies to acquisitions not performed under the requirements of FAR part 15, but utilizing tradeoff analysis.

(2) HUD's Chief Procurement Officer, as the Senior Procurement Executive, designates HUD's Office of General Counsel (OGC) as the Source Selection Authority, regardless of contract amount, in all Headquarters procurements for legal services, unless (s)he specifically designates another agency official to perform that function. Any Headquarters office desiring to procure outside legal services for the Department shall obtain OGC approval before advertising or soliciting proposals for such services. OGC shall determine whether the services are necessary and the extent of OGC involvement in the procurement.

(b)

(1) The technical evaluation requirements related to source selection shall be performed by a Technical Evaluation Panel (TEP). The TEP may consist of any number of members as appropriate to the acquisition, with one member serving as the chairperson. As needed, the TEP may include

advisors and committees to focus on specific technical areas or concerns. The TEP is responsible for fully documenting the evaluation of all proposals as appropriate to the source selection approach in use and for making the source selection recommendation to the source selection authority.

2415.304 Evaluation factors and significant subfactors.

(c)(3)(i) The extent of participation of small businesses in performance of the contract, whether as a joint venture, teaming arrangement, or subcontractor, shall be addressed in the source selection for contracts to be awarded using the tradeoff source selection process (see FAR 15.101-1) that require the use of the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(d) The solicitation shall state the basis for the source selection decision as either the “lowest price technically acceptable” (LPTA) process or the dquo;tradeoff” process (as defined at FAR subpart 15.1).

2415.305 Proposal evaluation.

(a) After receipt of proposals, the Contracting Officer will forward copies of the technical portion of each proposal to the TEP Chairperson or his or her designee. The cost/price portion of each proposal shall be retained by the Contracting Officer pending initial technical evaluation by the TEP.

(3) *Technical evaluation when tradeoffs are performed.* The TEP shall rate each proposal based on the evaluation factors specified in the solicitation. The TEP shall identify each proposal as being acceptable, unacceptable but capable of being made acceptable, or unacceptable. A proposal shall be considered unacceptable if it is so clearly deficient that it cannot be corrected through written or oral discussions. Under the tradeoff process, predetermined threshold levels of technical acceptability for proposals shall not be employed. A technical evaluation report, which complies with FAR 15.305(a)(3), shall be prepared and signed by the technical evaluators, furnished to the Contracting Officer, and maintained as a permanent record in the official procurement file.

2415.308 Source selection decision.

After receipt and evaluation of final proposal revisions, the TEP shall document its selection recommendation(s) in a final written report. The final report shall include sufficient information to support the recommendation(s) made, appropriate to the source selection approach and type and complexity of the acquisition.

2415.370 Solicitation provision.

The contracting officer shall insert the provision at 2452.215-72, Evaluation of Small Business Participation, in solicitations for contracts that require the use of the FAR clause in 52.219-9, “Small Business Subcontracting Plan,” that will be awarded using the tradeoff source selection process (see FAR 15.101-1).

Subpart 2415.5 - Preaward, Award, and Postaward notifications, Protests, and Mistakes

2415.507 Protests against award.

Protests against awards of negotiated procurements shall be processed in accordance with FAR subpart 33.1 and HUDAR subpart 2433.1

Subpart 2415.6 - Source Selection

Source: 50 FR 46577, Nov. 8, 1985, unless otherwise noted.

2415.605 Content of unsolicited proposals.

2415.605-70 Unsolicited research proposals.

FAR subpart 15.6 outlines the policies and procedures relating to unsolicited proposals. In addition to these requirements, the Department requires that each award made as the result of an unsolicited proposal for research contain a commitment to provide actual cost-sharing. This provision will be included in the award whether or not cost-sharing was part of the unsolicited proposal.

2415.606 Agency procedures.

(a) The contact points shall ensure that unsolicited proposals are controlled, evaluated, safeguarded, and disposed of in accordance with FAR subpart 15.6. Proposals, as used in this section, shall mean proposals for procurement contracts with the Department and shall not include proposals or applications for assistance, including grants or cooperative agreements.

(b) Unless otherwise specified in a Federal Register announcement, unsolicited proposals should be submitted to:

(1) For research: Department of Housing and Urban Development, Office of Policy Development and Research, PD&R Correspondence Unit, 451 Seventh Street, SW., Washington, DC 20410-0001.

(2) For all others: Department of Housing and Urban Development, Office of the Chief Procurement Officer, 451 Seventh Street, SW., Washington, DC 20410-0001.

(c) Individuals or organizations interested in submitting unsolicited proposals should contact the appropriate office in paragraph (b) of this section for additional information on proposal requirements.