

# Subpart 515.3 - Source Selection

**Parent topic:** Part 515 - Contracting by Negotiation

## 515.303 Responsibilities.

The Head of the Contracting Activity (HCA) is the agency head designee that appoints someone other than the contracting officer as the source selection authority (see FAR 15.303(a)).

## 515.304 Evaluation factors and significant subfactors.

(a) *Small business consideration.* Solicitations that are not set-aside for small business concerns should consider inclusion of a small business participation evaluation factor (see FAR 15.304(c)(4)) for additional requirements for procurements involving consolidation or bundling). The small business participation evaluation factor is separate from the small business subcontracting plan required at the contract level under FAR 19.7. Differences between the subcontracting plan and the evaluation factor include:

(1) Small business subcontracting plan. Established at the contract level only for offerors that are other than small businesses. Prior compliance by the offeror with subcontracting plans under separate contracts will be considered by the contracting officer in determining the responsibility of the offeror for award of the contract, as required by FAR 19.705-5. Contracting officers are required to review the plan to ensure it meets the requirements of FAR 19.704. No award can be made to an offeror with an unacceptable subcontracting plan per FAR 19.702(a)..

(2) Small business participation evaluation factor. Can be used at the contract level as well as at the order level. Evaluated in accordance with the source selection or evaluation criteria. Sample evaluation factor language and further details can be found on the Small Business Topic Page on the GSA Acquisition Portal at <https://insite.gsa.gov/acquisitionportal>.

(b) *Evaluation of small business participation factor.*

(1) Small business participation evaluation considerations may include:

(i) Extent to which socioeconomic small businesses will participate throughout the life of the contract.

(ii) Extent to which specific small businesses are identified, including the products and services such firms will provide.

(iii) Extent of commitments made by the prime contractor to small businesses. Greater weight should be given to enforceable commitments such as signed Contractor Teaming Arrangements, or written pledges to pay subcontractors within a specific number of days.

(iv) Variety and complexity of the work performed by small businesses.

(2) When using a small business participation evaluation factor, responses from small business offerors should receive full credit.

(3) Contracting officers should review responses from other than small business offerors for consistency with the required subcontracting plan. Examples of evaluating the small business participation factor responses consistent with the required subcontracting plan can be found on the OSDBU subcontracting page at <https://insite.gsa.gov/subcontracting>.

## **515.305 Proposal Evaluation.**

(a) *Restrictions placed on a proposal by the submitter.* If you receive a proposal with more restrictive conditions than those in the provision at FAR 52.215-1(e), ask whether the submitter is willing to accept the conditions of the paragraph at FAR 52.215-1(e). If the submitter refuses, consult with legal counsel on whether to accept the proposal as marked or return it.

(b) *Actions before releasing proposal.* Before releasing any proposal to an evaluator you must take all the following actions:

(1) Obtain the signed original "Conflict of Interest Acknowledgment and Nondisclosure Agreement" from each Government and nongovernment individual serving as an evaluator. Use the Acknowledgment/Agreement in Figure 515.3-1.

(i) For employees of other Executive agencies, replace the reference in paragraph (c) of the Acknowledgment/Agreement to GSA's supplemental standards with a reference to the applicable agency.

(ii) For nongovernment evaluators, substitute paragraph (c) of the Acknowledgment/Agreement with the following language and delete paragraph (h):

(2) Attach to each proposal a cover page bearing the following notice:

Government Notice for Handling Proposals

To anyone receiving this proposal or proposal abstract:

(1) This proposal must be used and disclosed for evaluation purposes only.

(2) You must apply a copy of this Government notice to any reproduction or abstract of this proposal.

(3) You must comply strictly with any authorized restrictive notices which the submitter places on this proposal.

(4) You must not disclose this proposal outside the Government for evaluation purposes except to the extent authorized by, and in accordance with, the procedures in 48 CFR 515.305-71.

### **515.305-70 Use of nongovernment evaluators.**

(a) *Conditions.* To use nongovernment evaluators, contracting officers must meet the restrictions in FAR 7.503, FAR 37.203 and GSAR [537.2](#). See also FAR subpart 3.11 and Office of Federal Procurement Policy Letter 11-1, Performance of Inherently Governmental and Critical Functions ([http://www.whitehouse.gov/omb/procurement\\_index\\_policy/](http://www.whitehouse.gov/omb/procurement_index_policy/)).

(b) *Limitations on disclosing proposal information.* The contracting officer may disclose proposal

information outside the Government before the Government's decision as to contract award only to the extent authorized in this section. Disclosure and handling must comply with FAR 3.1 and GSAM [503.104-4](#).

(c) *Relationship to the Freedom of Information Act*. Release of a proposal outside the Government for evaluation does not constitute the release of information under the Freedom of Information Act ([5 U.S.C. 552](#)).

### **515.305-71 Actions before releasing proposals.**

Before releasing any proposal to an evaluator, the contracting officer must take all of the following actions:

(a) Obtain the signed, original "Conflict of Interest Acknowledgment and Nondisclosure Agreement" from each Government and nongovernment individual serving as an evaluator. Use the Acknowledgment/Agreement in Figure 515.3-1. Conflict of Interest Acknowledgment and Nondisclosure Agreement.

(1) For employees of other Executive agencies, replace the reference in paragraph (c) of the Acknowledgment/Agreement to GSA's supplemental standards with a reference to the applicable agency.

(2) For nongovernment evaluators, substitute paragraph (c) of the Acknowledgment/Agreement with the language below and delete paragraph (h):

"(c) I have read and understand the requirements of [41 U.S.C. 2102](#)."

(b) Attach to each proposal a cover page bearing the following notice:

Government Notice for Handling Proposals

To anyone receiving this proposal or proposal abstract-

(1) his proposal must be used and disclosed for evaluation purposes only.

(2) A copy of this Government notice must be applied to any reproduction or abstract of this proposal.

(3) This proposal must not be disclosed to any person outside the Government, unless it is only for evaluation purposes to the extent authorized by, and in accordance with, the procedures in 48 CFR [515.305-70](#).

#### **Figure 515.3-1. Conflict of Interest Acknowledgment and Nondisclosure Agreement**

For proposals submitted in response to GSA solicitation no. \_\_\_\_\_, I agree to the following:

(a) To the best of my knowledge and belief, no conflict of interest exists that may either-

(1) Diminish my capacity to impartially review the proposals submitted; or

(2) Result in a biased opinion or unfair advantage.

(b) In making the above statement, I have considered all the following factors that might place me in a position of conflict, real or apparent, with the evaluation proceedings:

(1) All my stocks, bonds, other outstanding financial interests or commitments.

(2) All my employment arrangements (past, present, and under consideration).

(3) As far as I know, all financial interests and employment arrangements of my spouse, minor children, and other members of my immediate household.

(c) I have read and understand the requirements of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and Supplemental Standards of Ethical Conduct for Employees of the General Services Administration (5 CFR 6701).

(d) I have a continuing obligation to disclose any circumstances that may create an actual or apparent conflict of interest. If I learn of any such conflict, I will report it immediately to the contracting officer. I will cease performing duties related to evaluating proposals until I receive instructions on the matter.

(e) I will use proposal information for evaluation purposes only. I understand that any authorized restriction on disclosure placed on the proposal by the prospective contractor, prospective subcontractor, or the Government applies to any reproduction or abstracted information of the proposal.

(f) I will use my best efforts to safeguard proposal information physically. I will not disclose the contents of, nor release any information about, the proposals to anyone other than-

(1) The Source Selection Evaluation Board or other panel assembled to evaluate proposals submitted in response to the solicitation identified above; and

(2) Other individuals designated by the contracting officer.

(g) After completing evaluation, I will return to the Government all copies of the proposals and any abstracts.

(h) GSA Appropriations Act restriction. These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Codes, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.

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(Enter name of evaluator and organization)

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Date

## **515.306 Exchanges with offerors after receipt of proposals.**

Limit access to Government cost estimates to Government personnel whose official duties require knowledge of the estimate. During negotiations, the contracting officer may disclose part or all of the Government estimate under FAR 15.306(e) when necessary to arrive at a fair and reasonable price. After award, the contracting officer may reveal the total amount of the independent Government estimate.

## **515.370 IN-Depth Feedback through Open Reporting Methods (INFORM) Procedures.**

### **515.3700 Scope of section.**

The INFORM procedures prescribed in this section provide a standardized approach to GSA's post-award communications with offerors and provide all offerors fair access to data, *i.e.*, successful and unsuccessful offerors with detailed information about their submissions. GSA's INFORM procedures are designed to strengthen the relationship between GSA and industry by providing:

- (a) A clear understanding of the underlying rationale of GSA's evaluation and selection process;
- (b) Useful feedback which can assist industry with future submissions; and
- (c) Sufficient information on why the offeror did or did not receive the award.

### **515.3701 Definitions.**

As used in this section—

"Unredacted" means the information provided to offerors was not significantly altered, modified, edited or revised by GSA prior to distribution.

### **515.3702 General.**

#### **515.3702-1 Applicability.**

- (a) The INFORM procedures detailed in this section are required for all GSA acquisitions, including DOD assisted acquisitions, with a total estimated contract value (including option years) at or above \$10 million unless excluded or exempted per [515.3702-2](#).

(b) GSA contracting activities shall use the procedures and guidelines as prescribed in this section in conjunction with:

(1) The INFORM Guide at <http://insite.gsa.gov/inform>,

(2) The guidance in the applicable corresponding FAR parts 8, 12, 15 or 16, and

(3) Any other applicable GSAM part.

(c) If the INFORM procedures in this section are inconsistent with a requirement in another GSAM part, this section 515.370 shall take precedence.

(d) If there is a conflict between the INFORM Guide and this section, this section shall take precedence.

### **515.3702-2 Exclusions and exemptions.**

(a) Exclusions. The following are excluded from the INFORM post-award communication process:

(1) Acquisitions expected to award ten (10) or more contracts or awards in response to a solicitation. Multiple award contracts include but are not limited to, the Federal Supply Schedules (FSS), various Government-Wide IDIQs and GWACs,. The City Pairs Program (CPP) is also excluded. This exclusion does not extend to orders or BPAs placed against the multiple award contracts;

(2) Acquisitions that use the lowest price technically acceptable source selection process (see FAR 15.101-2(c));

(3) Non-competitive sole source procurements;

(4) Mandatory sources identified in FAR 8.002(a) and 8.003, *e.g.*, Federal Prison Industries, AbilityOne;

(5) Emergency acquisitions conducted under the procedures outlined in FAR part 18; and

(6) The acquisition of leasehold interests in real property.

(b) Exemptions. Heads of Contracting Activity (HCAs) may exempt an acquisition from the requirements of this section when it is in the best interest of the Government.

### **515.3702-3 Authority.**

The requirements for notifying, explaining, or debriefing offerors, *i.e.*, successful and unsuccessful offeror can be found in the following Federal Acquisition Regulation (FAR) parts:

(1) FAR 8.405 (Ordering Procedures for the Federal Supply Schedules);

(2) FAR 12.301 (Solicitation Provisions);

(3) FAR 15.503 (Notifications to Unsuccessful Offerors);

(4) FAR 15.506 (Post-award Debrief of Offerors); and

(5) FAR 16.505 (Orders under multiple-award contracts)

An additional authority for providing post-award enhanced debriefing when working with the Department of Defense (DOD) is at DOD Class Deviation 2018-00011.

### **515.3702-4 Limitations.**

The INFORM procedures will seek to share additional information with offerors in writing and/or through an oral feedback meeting that is not required by statute or regulation. The INFORM procedures are not intended to:

- (1) Substitute for industry's full understanding of the work requirements at the time offers are submitted;
- (2) Alter the final agreement arrived at in any negotiations leading to contract award; or
- (3) Extend the U.S. Government Accountability Office's (GAO) timeliness regulations found at Title 4 of the Code of Federal Regulations (C.F.R.), Part 21; therefore, nothing in the INFORM procedures purports or otherwise seeks to modify the timeliness regulations, in particular 4 C.F.R. § 21.2(a)(2).

### **515.3703 Policy.**

(a) GSA contracting activities shall incorporate the INFORM procedures throughout the acquisition lifecycle.

(b) GSA contracting activities shall provide all offerors, *i.e.*, successful and unsuccessful, with enhanced debrief or explanation feedback without requiring a written request from the offeror, see detail in [515.3703-4](#) and [515.3703-5](#).

#### **515.3703-1 Acquisition planning.**

Contracting officers shall—

- (a) Ensure plans comply with [507.104.html#GSAM\\_507\\_104\(d\)](#); and
- (b) Select members of the evaluation team, *e.g.*, members should include functional areas such as contracting, small business, technical, logistics, cost/price, legal, program management and end-user organizations, when appropriate. Evaluation team members should be told of the requirement to be available during the evaluation process, time constraints, and oral feedback meeting.

#### **515.3703-2 Solicitation.**

(a) Contracting officers shall incorporate the INFORM solicitation language into all applicable procurements.

(b) Contracting officers may use the INFORM sample solicitation language for FAR part 8, 12, 15, or 16 located at <http://insite.gsa.gov/inform>.

(c) Contracting officers are encouraged to use the sample language as written, but may change the language to meet the specific needs of the procurement so long as any such change complies with this subpart and the INFORM Guide.

### **515.3703-3 Evaluation and Selection.**

(a) Preaward Notification to Unsuccessful/Unacceptable Offerors. Contracting officers must use a customized Notification Letter and Evaluation Statement (NLES) to notify offerors whose submissions are eliminated from the competition (*e.g.*, not deemed to be part of competitive range or technically unacceptable)

(1) Sample NLES language is located at <http://insite.gsa.gov/inform>.

(2) Contracting officers must also follow the appropriate FAR Part (e.g. 15.503(a)) to ensure timely notification to unsuccessful offerors.

(3) Contracting officers may delay sending the NLES until the time of award to prevent any delays in awarding the contract or order.

(b) Evaluation. For each procurement using the INFORM post-award communication process, contracting officers are encouraged to—

(1) Design and implement templates for members of the evaluation team to use in evaluating offerors' submissions which can be easily copied and pasted into the NLES (NLES sample language per FAR part is located at <http://insite.gsa.gov/inform>);

(2) Incorporate language during the evaluation team orientation which commits evaluators to being available during the evaluation, answering of written questions and oral feedback meetings; and,

(3) Obtain the Office of General Counsel (OGC) review (see ADM 5000.4), when applicable.

### **515.3703-4 Notification of Award.**

(a) Notification Letter and Evaluation Statement (NLES). The NLES is an unredacted customized evaluation statement of the specific offeror's submission. The contracting officer provides the NLES even if an offeror does not request a debriefing or information on an award. The NLES must include the following:

(1) All the information outlined in FAR 8.405-2 4(d), 12.102(b), 15.503(b), 15.506(a)(4)(d) or 16.505(b)(6);

(2) Ratings for each evaluation factor, as identified in the solicitation;

(3) A narrative of the offeror's submission strengths and weaknesses and/or deficiencies for each evaluation factor including significant strengths and weaknesses;

(4) Technical rating;

- (5) Ranking order of their proposal, if applicable;
- (6) Cost/price data ranking chart, if applicable;
- (7) An opportunity to attend an oral feedback meeting with the evaluation team; and
- (8) An opportunity to ask written questions of the evaluation team (see 515.3703-5 for timelines).

(b) Procedures. The contracting officer, in accordance with the INFORM Guide at <http://insite.gsa.gov/inform>, shall—

(1) Prepare an NLES for each offer. Contracting activities should use information for the specific offeror from the source selection or evaluation panel reports. Sample NLES documents are available at <http://insite.gsa.gov/inform>.

(2) Obtain legal sufficiency (see ADM 5000.4).

(3) Send the NLES to each offeror at the time of award or in accordance with the appropriate FAR part. Ensure all minimum requirements from the FAR are addressed.

### **515.3703-5 Post Notification.**

Contracting activities shall—

(a) Within three (3) business days after sending the NLES. Monitor emails for receipt of written follow-up questions or requests for oral feedback meetings.

(b) Within five (5) business days after receipt of any NLES response. Respond in writing to written follow-up questions received or schedule an oral feedback meeting, as appropriate. Contracting officers should try to schedule and conduct the oral feedback meeting within the five (5) business days of the request. A sample format for conducting the oral feedback meeting is at <http://insite.gsa.gov/inform>.

(c) Within two (2) business days after any oral feedback meeting.

(1) Monitor emails for receipt of written follow-up questions.

(2) Within five (5) business days after receipt of any follow-up questions. Respond in writing to written questions received.

(d) Upon concluding INFORM procedures. Advise the offeror(s) that:

(1) The INFORM process has concluded;

(2) The FAR requirement for debriefing or explanation, as appropriate, has been met; and

(3) No further questions will be answered.