

### 315.209

(2) When the provision at 352.215-70 is included in the solicitation and a proposal is received after the exact time specified for receipt, the Contracting Officer, with the assistance of cost and technical personnel, shall make a written determination as to whether the proposal meets the requirements of the provision at 352.215-70 and, therefore, can be considered.

#### **315.209 Solicitation provisions and contract clauses.**

(a) The Contracting Officer shall insert paragraph (e) in 352.215-1 in place of paragraph (e) in the provision in FAR 52.215-1, Instructions to Offerors—Competitive Acquisition, in solicitations for competitive, negotiated acquisitions valued at more than the simplified acquisition threshold. This is an authorized FAR deviation.

### **Subpart 315.3—Source Selection**

#### **315.303-70 Policy.**

(a) If an OPDIV is required by statute to use peer review for technical review of specified contracts, the requirements of those statutes, any implementing regulatory requirements, the Federal Advisory Committee Act, and as applicable, any approved HHSAR deviation(s) from this subpart take precedence over the otherwise applicable requirements of this subpart.

(1) The statutes that require such review and implementing regulations are as follows: NIH—42 U.S.C. 289a and 42 CFR Part 52h; SAMHSA—42 U.S.C. 290aa-3, and AHRQ—42 U.S.C. 299c-1.

#### **315.304 Evaluation factors and significant subfactors.**

(a) A solicitation for EIT products and services, including EIT deliverables such as electronic documents and reports, shall include a separate technical evaluation factor (which may be in the form of a technical evaluation criterion or a mandatory qualification criterion, as appropriate) developed by the Contracting Officer, Project Officer, and the OPDIV Section 508 Coordinator to determine vendor compliance with applicable Section 508 accessibility standards. The technical evaluation panel's assessment of Section 508 accessibility standards con-

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formance shall be based on the Section 508 Product Assessment Template—see Section 508 policy on Office of Disability Web site for the template, and on any other pertinent information that offerors provide in response to a solicitation. The HHS Office on Disability is responsible for providing technical assistance in Section 508 evaluation factor development.

(b) Before conducting negotiations or making an award, the Contracting Officer shall provide a summary of the technical evaluation panel's assessment of vendor responses to the solicitation's Section 508 evaluation factor for review by the Section 508 Official or designee. The Section 508 Official or designee shall indicate approval/disapproval of the evaluation panel's assessment. The Contracting Officer shall coordinate the resolution of any issues raised by the Section 508 Official or designee with the chair of the technical evaluation panel or Project Officer, as appropriate. The acquisition process shall not proceed unless and until the Section 508 Official or designee has approved the technical evaluation panel's assessment. The Contracting Officer shall include the assessment in the official contract file. See 339.203 regarding processing exception determination requests.

#### **315.305 Proposal evaluation.**

(a)(1) *Cost or price evaluation.*

(i) The Contracting Officer shall evaluate proposals in accordance with the FAR 15.404. The extent of cost or price analysis in each case depends on the availability of competition, contract type, the proposed amount, and technical complexity.

(A) For competitive firm-fixed-price and fixed price with economic price adjustment contracts, price analysis should be sufficient to determine price fairness and reasonableness.

(B) When competition is not adequate for the above contract types, and for cost-reimbursement and time and materials contracts, cost analysis may be required. In such cases, the Contracting Officer shall request the Project Officer's assistance in analyzing the following cost elements, if