

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 713—SIMPLIFIED ACQUISITION PROCEDURES

Sec.

713.000 Scope of part.

Subpart 713.1—General

713.101 Definitions.

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SOURCE: 61 FR 39091, July 26, 1996, unless otherwise noted.

713.000 Scope of part.

The simplified acquisition threshold applies to the cost of supplies and services, exclusive of the cost of transportation and other accessorial costs if their destination is outside the United States.

Subpart 713.1—General

713.101 Definitions.

Accessorial costs means the cost of getting supplies or services to their destination in the cooperating country (and the travel costs of returning personnel to the U.S. or other point of hire). It does not include costs such as allowances or differentials related to maintaining personnel at post which are to be considered as part of the base costs within the simplified acquisition threshold.

PART 714—SEALED BIDDING

Subpart 714.4—Opening of Bids and Award of Contract

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714.406-3 Other mistakes disclosed before award.

714.406-4 Disclosure of mistakes after award.

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Subpart 714.4—Opening of Bids and Award of Contract

714.406-3 Other mistakes disclosed before award.

The M/OAA Director is the designated central authority to make the determinations described in FAR 14.406-3.

[49 FR 13240, Apr. 3, 1984, as amended at 54 FR 46389, Nov. 3, 1989; 64 FR 42040, Aug. 3, 1999; 72 FR 19670, Apr. 19, 2007]

714.406-4 Disclosure of mistakes after award.

The M/OAA Director is the designated central authority to make the determinations described in FAR 14.406-4.

[49 FR 13240, Apr. 3, 1984, as amended at 64 FR 42040, Aug. 3, 1999; 72 FR 19670, Apr. 19, 2007]

PART 715—CONTRACTING BY NEGOTIATION

Subpart 715.3—Source Selection

Sec.

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AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

SOURCE: 49 FR 13240, Apr. 3, 1984, unless otherwise noted.

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 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.

[61 FR 39091, July 26, 1996. Redesignated and amended at 64 FR 16648, Apr. 6, 1999]

715.305 Proposal evaluation.

(a)(1) [Reserved]

(2) USAID shall use the information on offerors made available from the NIH Contractor Performance System to evaluate past performance. (Access to the system by USAID contracting office personnel is authorized by the USAID Past Performance Coordinator, E-mail address: *AIDNET: Past Performance@op.spu@aidw/Internet: pastperformance@usaid.gov.*)

(b) A justification is to 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, the Contracting Officer shall obtain a signed and dated certification and agreement from each NGE and EAC that they will safeguard the proposals and information therein and that they perceive no actual or potential conflict of interests. (An acceptable certification appears under ADS Chapter 302).

[64 FR 16648, Apr. 6, 1999; 64 FR 25405, May 11, 1999, as amended at 65 FR 36642, June 9, 2000]

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.

[64 FR 16649, Apr. 6, 1999]

715.370-1 Title XII selection procedure—general.

(a) *General.* The Deputy Administrator has determined, as provided in 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 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 PIO/T 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 synopsisized, as required by 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 715.608 of this subpart.

(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.

[52 FR 6158, Mar. 2, 1987, as amended at 54 FR 28069, July 5, 1989; 55 FR 6802, Feb. 27, 1990. Redesignated at 64 FR 16648, Apr. 6, 1999]

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 AIDR 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 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 AIDAR appendix F.

(5) The contracting officer will transmit all expressions of interest to the evaluation panel for evaluation and selection recommendation. The panel

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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.

[52 FR 6159, Mar. 2, 1987, as amended at 54 FR 28069, July 5, 1989; 55 FR 6802, Feb. 27, 1990; 62 FR 40467, July 29, 1997; 62 FR 45334, Aug. 27, 1997; 62 FR 47532, Sept. 9, 1997. Redesignated at 64 FR 16648, Apr. 6, 1999]

Subpart 715.6—Unsolicited Proposals

715.602 Policy.

(a) USAID encourages the submission of unsolicited proposals which contribute new ideas consistent with and contributing to the accomplishment of the Agency's objectives. However, the requirements for contractor resources are normally quite program specific, and thus widely varied, and must be responsive to host country needs. Further, USAID's projects are usually designed in collaboration with the cooperating country. These factors can limit both the need for, and USAID's ability to use unsolicited proposals. Therefore, prospective offerors are encouraged to contact USAID to determine the Agency's technical and geographical requirements as related to the offeror's interests before preparing and submitting a formal unsolicited proposal.

(b) USAID's basic policies and procedures regarding unsolicited proposals are those established in FAR subpart 15.6 and this subpart.

(c) For detailed information on unsolicited proposals, see 715.604; for initial

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contact point within USAID, see 715.604(c).

[49 FR 13240, Apr. 3, 1984. Redesignated and amended at 64 FR 16648, 16649, Apr. 6, 1999; 64 FR 25405, May 11, 1999]

715.604 Agency points of contact.

(a) Information concerning USAID's policies for unsolicited proposals is available from the U.S. Agency for International Development, Evaluation Division, Room 7.08-005, 1300 Pennsylvania Avenue, NW., Washington, DC 20523-7803.

(b) The information available concerns:

- (1) Contact points within USAID;
- (2) Definitions;
- (3) Characteristics of a suitable proposal;
- (4) Determination of contractor responsibility;
- (5) Organizational conflict of interest;
- (6) Cost sharing; and
- (7) Procedures for submission and evaluation of proposals.

(c) Initial inquiries and subsequent unsolicited proposals should be submitted to the address specified in paragraph (a) of this section.

[49 FR 13240, Apr. 3, 1984, as amended at 50 FR 50302, Dec. 10, 1985; 52 FR 21058, June 4, 1987; 56 FR 2699, Jan. 24, 1991; 56 FR 67224, Dec. 30, 1991; 59 FR 33446, June 29, 1994. Redesignated and amended at 64 FR 16648, 16649, Apr. 6, 1999]

PART 716—TYPES OF CONTRACTS

Subpart 716.3—Cost Reimbursement Contracts

Sec.
716.303 Cost-sharing contracts.
716.306 [Reserved]
709.406 Contract clauses.

Subpart 716.5 [Reserved]

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Subpart 716.3—Cost Reimbursement Contracts

716.303 Cost-sharing contracts.

(a)-(b) [Reserved]