

Subpart 215.2—Solicitation and Receipt of Proposals and Information

215.203-70 Requests for proposals—tiered evaluation of offers.

(a) The tiered or cascading order of precedence used for tiered evaluation of offers shall be consistent with FAR part 19.

(b) Consideration shall be given to the tiers of small businesses (*e.g.*, 8(a), HUBZone small business, service-disabled veteran-owned small business, small business) before evaluating offers from other than small business concerns.

(c) The contracting officer is prohibited from issuing a solicitation with a tiered evaluation of offers unless—

(1) The contracting officer conducts market research, in accordance with FAR Part 10 and Part 210, to determine—

(i) Whether the criteria in FAR part 19 are met for setting aside the acquisition for small business; or

(ii) For a task or delivery order, whether there are a sufficient number of qualified small business concerns available to justify limiting competition under the terms of the contract; and

(2) If the contracting officer cannot determine whether the criteria in paragraph (c)(1) of this section are met, the contracting officer includes a written explanation in the contract file as to why such a determination could not be made (Section 816 of Public Law 109-163).

[71 FR 53043, Sept. 8, 2006, as amended at 72 FR 42314, Aug. 2, 2007]

215.209 Solicitation provisions and contract clauses.

(a) For source selections when the procurement is \$100 million or more, contracting officers should use the provision at FAR 52.215-1, Instructions to Offerors—Competitive Acquisition, with its Alternate I.

[76 FR 58152, Sept. 20, 2011]

215.270 Peer Reviews.

Agency officials shall conduct Peer Reviews in accordance with 201.170.

[74 FR 37626, July 29, 2009]

Subpart 215.3—Source Selection

215.300 Scope of subpart.

Contracting officers shall follow the principles and procedures in Director, Defense Procurement and Acquisition Policy memorandum dated March 4, 2011, Department of Defense Source Selection Procedures, when conducting negotiated, competitive acquisitions utilizing FAR part 15 procedures.

[76 FR 13297, Mar. 11, 2011]

215.303 Responsibilities.

(b)(2) For high-dollar value and other acquisitions, as prescribed by agency procedures, the source selection authority shall approve a source selection plan before the solicitation is issued. Follow the procedures at PGI 215.303(b)(2) for preparation of the source selection plan.

[71 FR 3414, Jan. 23, 2006]

215.304 Evaluation factors and significant subfactors.

(c)(i) In acquisitions that require use of the clause at FAR 52.219-9, Small Business Subcontracting Plan, other than those based on the lowest price technically acceptable source selection process (see FAR 15.101-2), the extent of participation of small businesses and historically black colleges or universities and minority institutions in performance of the contract shall be addressed in source selection. The contracting officer shall evaluate the extent to which offerors identify and commit to small business and historically black college or university and minority institution performance of the contract, whether as a joint venture, teaming arrangement, or subcontractor.

(A) See PGI 215.304(c)(i)(A) for examples of evaluation factors.

(B) Proposals addressing the extent of small business and historically black college or university and minority institution performance may be separate from subcontracting plans

submitted pursuant to the clause at FAR 52.219-9 and should be structured to allow for consideration of offers from small businesses.

(C) When an evaluation assesses the extent that small businesses and historically black colleges or universities and minority institutions are specifically identified in proposals, the small businesses and historically black colleges or universities and minority institutions considered in the evaluation shall be listed in any subcontracting plan submitted pursuant to FAR 52.219-9 to facilitate compliance with 252.219-7003(g).

(ii) In accordance with 10 U.S.C. 2436, consider the purchase of capital assets (including machine tools) manufactured in the United States, in source selections for all major defense acquisition programs as defined in 10 U.S.C. 2430.

(iii) See 247.573-2(c) for additional evaluation factors required in solicitations for the direct purchase of ocean transportation services.

(iv) In accordance with section 812 of the National Defense Authorization Act for Fiscal Year 2011, consider the manufacturing readiness and manufacturing-readiness processes of potential contractors and subcontractors as a part of the source selection process for major defense acquisition programs.

[71 FR 3414, Jan. 23, 2006, as amended at 71 FR 14109, Mar. 21, 2006; 72 FR 49205, Aug. 28, 2007; 76 FR 38051, June 29, 2011]

215.305 Proposal evaluation.

(a)(2) *Past performance evaluation.* When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219-8, Utilization of Small Business Concerns, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause. When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219-9, Small Business Subcontracting Plan, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause.

[71 FR 3414, Jan. 23, 2006]

215.306 Exchanges with offerors after receipt of proposals.

(c) *Competitive range.*

(1) For acquisitions with an estimated value of \$100 million or more, contracting officers should conduct discussions. Follow the procedures at FAR 15.306(c) and (d).

[76 FR 58152, Sept. 20, 2011]

215.370 Evaluation factor for employing or subcontracting with members of the Selected Reserve.

215.370-1 Definition.

Selected Reserve, as used in this section, is defined in the provision at 252.215-7005, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve.

[73 FR 62211, Oct. 20, 2008]

215.370-2 Evaluation factor.

In accordance with Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163), the contracting officer may use an evaluation factor that considers whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. See PGI 215.370-2 for guidance on use of this evaluation factor.

[73 FR 62211, Oct. 20, 2008]

215.370-3 Solicitation provision and contract clause.

(a) Use the provision at 252.215-7005, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve, in solicitations that include an evaluation factor considering whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve.

(b) Use the clause at 252.215-7006, Use of Employees or Individual Subcontractors Who are Members of the Selected Reserve, in solicitations that include the provision at 252.215-7005. Include the clause in the resultant contract only if the contractor stated in its proposal that it intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve, and that