

## Health and Human Services

315.201

*FAR 14.202–7*, to ensure uniform processing and control.

### Subpart 314.4—Opening of Bids and Award of Contract

#### 314.404 Rejection of bids.

##### 314.404–1 Cancellation of invitations after opening.

(c) The HCA or CCO (non-delegable) shall make the agency head determinations specified in *FAR 14.404–1*.

#### 314.407 Mistakes in bids.

##### 314.407–3 Other mistakes disclosed before award.

(e) The CCO (non-delegable) has the authority to make determinations under paragraphs (a), (b), (c), and (d) of *FAR 14.407–3*.

(f) OGC–GLD shall concur in each proposed determination.

(i) The CCO shall submit directly to OGC–GLD cases in which the evidence is not clear and convincing or is otherwise doubtful.

#### 314.407–4 Mistakes after award.

(c) The HCA or the CCO (non-delegable), in consultation with OGC–GLD, has the authority to make administrative determinations in connection with mistakes in bid alleged after award.

(d) OGC–GLD shall concur in each proposed determination.

## PART 315—CONTRACTING BY NEGOTIATION

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315.307 Proposal revisions.

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315.371 Contract preparation and award.

315.372 Preparation of negotiation memorandum.

#### Subpart 315.4—Contract Pricing

315.404 Proposal analysis.

315.404–2 Information to support proposal analysis.

315.404–4 Profit.

#### Subpart 315.6—Unsolicited Proposals

315.605 Content of unsolicited proposals.

315.606 Agency procedures.

315.606–1 Receipt and initial review.

315.609 Limited use of data.

#### Subpart 315.70—Acquisition of Electronic Information Technology

315.7000 Section 508 accessibility standards.

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### Subpart 315.2—Solicitation and Receipt of Proposals and Information

#### 315.201 Exchanges with industry before receipt of proposals.

(e)(1) An OPDIV may issue an advance notice, entitled “Request for Information,” in accordance with the requirements of *FAR 15.201(e)*, whenever it requires technical, scientific, and/or business information and input from the marketplace for project planning purposes regarding the availability of existing or potential solutions. An RFI may be used for any type of requirement, but is particularly appropriate for complex projects involving R & D, IT, construction, and other highly technical requirements. An RFI may also be issued to identify issues about the Government’s requirements and the planned acquisition strategy. Use of an RFI generally is appropriate under the following conditions:

(i) It is not clear whether the purpose and performance requirements of a potential or planned project are feasible, achievable, and complete.

(ii) It is not certain that a solution, technical approach, or product needed to accomplish a potential or planned

project exists or can be developed, particularly in the case of a new, highly specialized/unique Government program mandate.

(iii) It is necessary to test the marketplace to determine if there are questions or concerns regarding the use of a new or innovative acquisition strategy or instrument previously untried to accomplish a potential or planned project.

(iv) It is necessary to determine the general effort or time (estimate or rough order of magnitude) that may be required to accomplish a potential or planned project.

NOTE: This type of information may be requested, only if it is necessary, broad in scope, and required for planning purposes. Detailed estimates must not be requested.

(v) It is necessary to ensure that unduly restrictive technical or business/acquisition requirements are not made part of any resultant solicitation so that maximum competition is generated.

(2) When using an RFI, an OPDIV shall not request that potential sources provide more than the minimum information necessary—see *FAR 10.001(b)*, to obtain the input required. The notice and the information received shall not be used to determine how well respondents can perform a requirement, which can only be evaluated in response to a solicitation. Accordingly, the notice shall not be used to—

(i) Obtain capability statements that are evaluated and determined acceptable or unacceptable;

(ii) Require cost/price proposals or detailed technical solutions;

(iii) Identify a prospective sole source; or

(iv) Exclude small business concerns.

(3) While not the primary intent of an RFI, an OPDIV may additionally request that respondents provide information regarding their organizational size classification and capabilities when the OPDIV is uncertain whether any organization, acting individually or in partnership with others, can satisfy the requirement. For example, the notice may ask respondents to identify whether they are small businesses; HUBZone small businesses; service-disabled, veteran-owned small businesses; 8(a) small businesses; veteran-owned small businesses; woman-owned small

businesses; or a small disadvantaged businesses. However, an RFI shall not be used solely to determine the availability of qualified sources for a proposed project or to determine their size classification. In such instances, as applicable, an R & D Sources Sought notice, Sources Sought notice, or Small Business Sources Sought notice may be used—see *HHSAR 305.205*, *310.001*, and *319.202-2*.

(4) OPDIVs shall follow the standard HHS instructions for completing an RFI. The template for an RFI is available on the ASFR/OGAPA/DA Internet Web site. The Contracting Officer shall post the notice in FedBizOpps by selecting and completing a Special Notice, accessible on the FedBizOpps “Notices” page at: <http://www.fedbizopps.gov>. RFIs must be published, at a minimum, in FedBizOpps—see *FAR 10.002(b)(2)(iii)* and *15.201(d)*. Additional information may be included in an RFI in accordance with OPDIV procedures. The Contracting Officer shall document, in the form of a memorandum to the file, the results of the review by technical personnel of information submitted in response to the notice, including whether each respondent appears to be capable of performing the requirement. The Contracting Officer shall attach a copy of the analysis provided by the technical personnel to the memorandum.

### **315.204-5 Part IV—Representations and instructions.**

(c) *Section M, Evaluation factors for award.*

(1) *General.*

(i) The Project Officer shall develop technical evaluation factors and submit them to the Contracting Officer as part of the acquisition plan or other acquisition request documentation for inclusion in a solicitation. The Project Officer shall indicate the relative importance or weight of the evaluation factors based on the requirements of an individual acquisition. Since the evaluation factors will serve as the standard for proposal evaluation, they require careful selection.

(ii) Only a formal amendment to a solicitation can change the evaluation factors. Evaluation of proposals shall