

## 515.305

contracts over \$100,000, including acquisitions of leasehold interests in real property, that meet any of the following conditions:

(1) Involve the use or disposition of Government-furnished property.

(2) Provide for advance payments, progress payments based on cost, or guaranteed loan.

(3) Contain a price warranty or price reduction clause.

(4) Involve income to the Government where income is based on operations under the control of the contractor.

(5) Include an economic price adjustment clause where the adjustment is not based solely on an established, third party index.

(6) Are requirements, indefinite-quantity, or letter type contracts as defined in FAR part 6.

(7) Are subject to adjustment based on a negotiated cost escalation base.

(8) Contain the provision of FAR 52.223-4, Recovered Material Certification.

(b) You may modify the clause at 552.215-70 to define the specific area of audit (e.g., the use or disposition of Government-furnished property, compliance with the price reduction clause). Counsel and the Assistant Inspector General—Auditing or Regional Inspector General—Auditing, as appropriate, must concur in any modifications to the clause.

### *Clause for Multiple Award Schedules*

(c) Insert the clause at 552.215-71, Examination of Records by GSA (Multiple Award Schedule), in solicitations and contracts for MAS contracts.

(d) With the Senior Procurement's Executive approval, you may modify the clause at 552.215-71 to provide for post-award access to and the right to examine records to verify that the pre-award/modification pricing, sales or other data related to the supplies or services offered under the contract which formed the basis for the award/modification was accurate, current, and complete. The following procedures apply:

(1) Such a modification of the clause must provide for the right of access to expire 2 years after award or modification.

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(2) Before modifying the clause, you must make a determination that absent such access there is a likelihood of significant harm to the Government and submit it to the Senior Procurement Executive for approval.

(3) The determinations under paragraph (d)(2) of this section must be made on a schedule-by-schedule basis.

## Subpart 515.3—Source Selection

### 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):

(c) I have read and understand the requirements of subsection 27(a) and 27(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 423).

(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.

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(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 outside evaluators.

(a) *Conditions.* To use outside evaluators, you must meet the restrictions in FAR 37.203 and 537.2.

(b) *Limitations on disclosing proposal information.* You 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 503.1.

(c) *Solicitation notice.* Include in the solicitation a notice substantially as follows:

#### NOTICE ABOUT RELEASING PROPOSALS

(1) The Government intends to disclose proposals received in response to this solicitation to nongovernment evaluators.

(2) Each evaluator will sign and provide to GSA a "Conflict of Interest Acknowledgment and Nondisclosure Agreement."

#### FIGURE 515.3-1—CONFLICT OF INTEREST ACKNOWLEDGMENT AND NONDISCLOSURE AGREEMENT

##### CONFLICT OF INTEREST ACKNOWLEDGMENT AND NONDISCLOSURE AGREEMENT

For proposals submitted in response to GAS 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.

(2) Or 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 Part 2635) and Supplemental Standards of Ethical Conduct for Employees of the General Service Administration (5 CFR Part 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 perform no more 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.

(2) Other individuals designed 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 disclosure of 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.