

**1871.401-2 Two-step competitive acquisition.**

(a) Policy. (1) RFO's may specify that evaluation and award may be conducted in two distinct steps, similar in concept to "Two Step Sealed Bidding." The MidRange Two Step process should be used when it is desirable to award to the lowest, responsive, responsible offeror after determining that the initial technical offer, or the revised technical offer, is acceptable.

(2) The procedures of FAR 14.503-2(a) shall be used once Step Two of this process begins.

(b) Procedures. (1) The RFO shall request offerors to provide both a technical and a price offer by the closing date specified. Price offers are requested to ensure that they are accomplished in a timely manner and to reduce the time required for Step Two.

(2) Step One. The technical offer will be evaluated to determine if the product or service offered is acceptable. The buying team may proceed directly to Step Two if there are sufficient acceptable offers to ensure adequate price competition, and if further time, effort and delay to make additional offers acceptable and thereby increase competition would not be in the Government's interest. If this is not the case, the buying team procurement member shall enter into discussions and request offeror(s) whose offer(s) is susceptible to being made acceptable to submit additional clarifying or supplementing information to make it acceptable (see FAR 14.503-1). It is expected that these discussions will be conducted on an informal basis. After completion of discussions, the buying team shall proceed to Step Two.

(3) Step Two. If discussions were held, the buying team shall afford all offerors who have submitted acceptable offers and those offers with whom discussions were conducted, an opportunity, by a common date, to revise their price offers. No changes to technical offers will be permitted during this process. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. The amount of time given shall be the same for each offeror. The procedures at 1871.401-1(b) (2) and (3) shall then be followed.

(4) The Government will award a contract to the low, responsive, responsible offeror, whose offer conforms to the RFO and will be most advantageous to the Government, considering only price and the price-related factors included in the solicitation.

(5) When proceeding with an unrestricted acquisition see—

(i) FAR Subpart 19.11 regarding use of the price evaluation adjustment for SDB concerns; and

(ii) FAR Subpart 19.13 regarding use of the price evaluation preference for HUBZone small business concerns.

[61 FR 55758, Oct. 29, 1996, as amended at 64 FR 19927, Apr. 23, 1999]

**1871.401-3 Competitive negotiated acquisition not using qualitative criteria.**

(a) Policy. (1) RFO's may provide for discussion of all aspects of the offer but award is based on the technically acceptable offer having the lowest price (if fixed price) or the lowest most probable cost (if cost reimbursable). This method should be used when qualitative factors are not material in the award decision, but it is important to assure that technical offers and contract terms are fully compliant with the Government's needs. This method also permits direct discussion of price with offerors and is particularly appropriate when different approaches can be offered to satisfy the Government's need.

(2) The RFO should reserve the right to award without discussion based on the initial offers submitted. FAR 52.215-1, will be included in all RFO's for competitive negotiated procurements not using qualitative criteria except for solicitations for commercial item acquisitions.

(3) See FAR 15.304, FAR 15.305(a)(2), and 1815.305(a)(2) regarding the evaluation of past performance.

(4) When proceeding with an unrestricted acquisition see—

(i) FAR Subpart 19.11 regarding use of the price evaluation adjustment for SDB concerns; and

(ii) FAR Subpart 19.13 regarding use of the price evaluation preference for HUBZone small business concerns.

(b) Procedures. (1) The RFO shall request offerors to provide both a technical and a price offer by the closing date specified.

(2) *Initial evaluation.* The buying team shall review each offer to determine if all required information has been provided. No further evaluation shall be made of any offer that is deemed unacceptable because it does not meet the technical requirements of the RFO and is not reasonably susceptible to being made so. Offerors may be contacted for clarification purposes only during the initial evaluation. Offerors determined not to be acceptable shall be notified of their rejection and the reasons therefor and excluded from further consideration. Documentation for such rejection should consist of one or more succinct statements of fact that show the offer is not acceptable. No documentation is required if all offers are deemed to be acceptable or reasonably susceptible to being made so.

(3) *Determination of finalists.* From among the acceptable offers and those susceptible to being made acceptable, the buying team shall rank the offers based on price (or most probable cost) and exclude any whose price/most probable cost precludes any reasonable chance of being selected for final award. The remaining offers constitute the "finalists" for the contract. Only in exceptional cases will this number be less than two offers. The procurement buying team member shall succinctly record the basis for the decision.

(4) *Discussions.* The procurement buying team member shall lead discussions with each finalist. The discussions are intended to assist the buying team in fully understanding each finalist's offer and to assure that all finalists are competing equally on the basis intended. Care must be exercised to ensure these discussions adhere, to the extent applicable, to the guidelines set forth in FAR 15.306. It is expected that discussions will be conducted on an informal basis with each finalist. After completion of discussions, each finalist shall be afforded an opportunity to revise its offer to support and clarify its offer. A reasonable amount of time (Normally less than 5 working days) will be afforded for the revision. The amount of

time given shall be the same for each finalist. Such discussions are not required if there are sufficient acceptable offers to ensure adequate price competition, and if further time, effort and delay to make additional proposals acceptable and thereby increase competition, would not be in the Government's interest.

(5) *Selection.* The procurement team member shall be the source selection official. The source selection official may elect to make selection in lieu of determining finalists provided that it can be demonstrated that (i) selection of an initial offer(s) will result in the lowest price/cost to the Government and (ii) discussions with other acceptable offerors are not anticipated to change the outcome of the initial evaluation relative to evaluated price/cost. It is expected that the source selection statement will not ordinarily exceed one page and that the basis for the decision will be apparent upon review of the informal worksheets used in the evaluation process. These informal worksheets shall be included in the contract file.

(6) The names of offerors determined to be finalists or the name of the offeror selected for contract award will be electronically transmitted to all offerors. This will serve as notification to those offers that were not selected for further evaluation (see 1871.505).

[61 FR 55758, Oct. 29, 1996, as amended at 63 FR 9966, 9967, Feb. 27, 1998; 64 FR 19927, Apr. 23, 1999]

**1871.401-4 Competitive negotiations using qualitative criteria (Best Value Selection).**

(a) Policy. (1) MidRange procurements shall normally use the BVS source selection method, prescribed in part 1871, subpart 1871.6, when it is desirable to base evaluation and award on a combination of price and non-price qualitative criteria.

(2) The RFO should reserve the right to award without discussion based on the initial offers submitted. FAR 52.215-1, will be included in all RFO's for competitive negotiated procurements using qualitative criteria except for solicitations for commercial item acquisitions.