

Federal Acquisition Regulation

25.504-4

Analysis: Since the low offer is an eligible offer, award on the low offer (see 25.502(c)(1)).

(b) Example 2.

Offer A \$105,000 Eligible product.
Offer B 103,000 Noneligible product.

Analysis: Since the acquisition is not subject to the Trade Agreements Act, the contracting officer can consider the noneligible offer. Since no domestic offer was received, make a nonavailability determination and award on Offer B (see 25.502(c)(2)).

(c) Example 3.

Offer A \$105,000 Domestic end product, large business.
Offer B 103,000 Eligible product.
Offer C 100,000 Noneligible product.

Analysis: Since the acquisition is not subject to the Trade Agreements Act, the contracting officer can consider the noneligible offer. Because the eligible offer (Offer B) is lower than the domestic offer (Offer A), no evaluation factor applies to the low offer (Offer C). Award on the low offer (see 25.502(c)(3)).

25.504-4 Group award basis.

(a) Example 1.

Item	Offers		
	A	B	C
1	DO = \$55,000	EL = \$56,000	NEL = \$50,000
2	NEL = 13,000	EL = 10,000	EL = 13,000
3	NEL = 11,500	DO = 12,000	DO = 10,000
4	NEL = 24,000	EL = 28,000	NEL = 22,000
5	DO = 18,000	NEL = 10,000	DO = 14,000
	121,500	116,000	109,000

Key: DO = Domestic end product; EL = Eligible product; NEL = Noneligible product.

Problem: Offeror C specifies all-or-none award. Assume all offerors are large businesses. The Trade Agreements Act does not apply.

Analysis: (see 25.503)

STEP 1: Evaluate Offers A & B before considering Offer C and determine which offer has the lowest evaluated cost for each line item (the tentative award pattern):

Item 1: Low offer A is domestic; select A.

Item 2: Low offer B is eligible; do not apply factor; select B.

Item 3: Low offer A is noneligible and Offer B is a domestic offer. Apply a 6 percent factor to Offer A. The evaluated price of Offer A is higher than Offer B; select B.

Item 4: Low offer A is noneligible. Since neither offer is a domestic offer, no evaluation factor applies; select A.

Item 5: Low offer B is noneligible; apply a 6 percent factor to Offer B. Offer A is still higher than Offer B; select B.

STEP 2: Evaluate Offer C against the tentative award pattern for Offers A and B:

Item	Offers		
	Low offer	Tentative award pattern from A and B	C
1	A	DO=\$55,000	*NEL=\$53,000
2	B	EL=10,000	EL=13,000
3	B	DO=12,000	DO=10,000
4	A	NEL=24,000	NEL=22,000
5	B	*NEL=10,600	DO=14,000
		111,600	112,000

*Offer + 6 percent.

On a line item basis, apply a factor to any noneligible offer if the other offer for that line item is domestic.

For Item 1, apply a factor to Offer C because Offer A is domestic and the acquisition was not subject to the Trade Agreements Act. The evaluated price of Offer C, Item 1,

becomes \$53,000 (\$50,000 plus 6 percent). Apply a factor to Offer B, Item 5, because it is a noneligible product and Offer C is domestic. The evaluated price of Offer B is \$10,600 (\$10,000 plus 6 percent). Evaluate the remaining items without applying a factor.

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STEP 3: The tentative unrestricted award pattern from Offers A and B is lower than the evaluated price of Offer C. Award the combination of Offers A and B. Note that if

Offer C had not specified all-or-none award, award would be made on Offer C for line items 1, 3, and 4, totaling an award of \$82,000. (b) Example 2.

Item	Offers		
	A	B	C
1	DO=\$50,000	EL=\$50,500	NEL=\$50,000
2	NEL=10,300	NEL=10,000	EL=10,200
3	EL=20,400	EL=21,000	NEL=20,200
4	DO=10,500	DO=10,300	DO=10,400
	91,200	91,800	90,800

Problem: The solicitation specifies award on a group basis. Assume the Buy American Act applies and the acquisition cannot be set aside for small business concerns. All offerors are large businesses.

Analysis: (see 25.503(c))

STEP 1: Determine which of the offers are domestic (see 25.503(c)(1)):

	Domestic [percent]	Determination
A	60,500/91,200=66.3%	Domestic
B	10,300/91,800=11.2%	Foreign
C	10,400/90,800=11.5%	Foreign

STEP 2: Determine whether foreign offers are eligible or noneligible offers (see 25.503(c)(2)):

	Domestic + eligible [percent]	Determination
A	N/A	Domestic
B	81,800/91,800=89.1%	Eligible
C	20,600/90,800=22.7%	Noneligible

STEP 3: Determine whether to apply an evaluation factor (see 25.503(c)(3)). The low offer (Offer C) is a foreign offer. There is no eligible offer lower than the domestic offer. Therefore, apply the factor to the low offer. Addition of the 6 percent factor (use 12 percent if Offer A is a small business) to Offer C yields an evaluated price of \$96,248 (\$90,800 + 6 percent). Award on Offer A (see 25.502(c)(4)(ii)). Note that, if Offer A were greater than Offer B, an evaluation factor would not be applied and award would be on Offer C (see 25.502(c)(3)).

[64 FR 72419, Dec. 27, 1999; 65 FR 4633, Jan. 31, 2000]

Subpart 25.6—Trade Sanctions

25.600 Scope of subpart.

This subpart implements sanctions imposed by the President pursuant to Section 305(g)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)),

on European Union (EU) member states that discriminate against U.S. products or services (sanctioned EU member states). This subpart does not apply to contracts for supplies or services awarded and performed outside the United States, or to the Department of Defense. For thresholds unique to individual agencies, see agency regulations.

25.601 Policy.

(a) Except as provided in 25.602, agencies shall not award contracts for—

(1) Sanctioned EU country end products with an estimated acquisition value less than \$169,000;

(2) Sanctioned EU country construction with an estimated acquisition value less than \$6,481,000; or

(3) Sanctioned EU country services as follows (Federal Service Code or Category from the Federal Procurement Data System Product/Service Code Manual is indicated in parentheses):

(i) Service contracts regardless of acquisition value for—

(A) All transportation services, including launching services (all V codes, J019, J998, J999, and K019);

(B) Dredging (Y216 and Z216);

(C) Management and operation of certain Government or privately owned facilities used for Government purposes, including federally funded research and development centers (all M codes);

(D) Development, production or co-production of program material for broadcasting, such as motion pictures (T006 and T016);

(E) Research and development (all A codes);

(F) Airport concessions (S203);

(G) Legal services (R418);