

Subpart 214.2—Solicitation of Bids

214.202 General rules for solicitation of bids.

214.202-5 Descriptive literature.

(c) *Requirements of invitation for bids.* When brand name or equal purchase descriptions are used, use of the provision at FAR 52.211-6, Brand Name or Equal, satisfies this requirement.

[56 FR 36326, July 31, 1991, as amended at 63 FR 11528, Mar. 9, 1998; 64 FR 55633, Oct. 14, 1999; 69 FR 65090, Nov. 10, 2004]

Subpart 214.4—Opening of Bids and Award of Contract

214.404 Rejection of bids.

214.404-1 Cancellation of invitations after opening.

The contracting officer shall make the written determinations required by FAR 14.404-1 (c) and (e).

214.407 Mistakes in bids.

214.407-3 Other mistakes disclosed before award.

(e) Authority for making a determination under FAR 14.407-3(a), (b) and (d) is delegated for the defense agencies, without power of redelegation, as follows:

- (i) Defense Advanced Research Projects Agency: General Counsel, DARPA.
- (ii) Defense Information Systems Agency: General Counsel, DISA.
- (iii) Defense Intelligence Agency: Principal Assistant for Acquisition.
- (iv) Defense Logistics Agency:
 - (A) General Counsel, DLA; and
 - (B) Associate General Counsel, DLA.
- (v) National Imagery and Mapping Agency: General Counsel, NIMA.
- (vi) Defense Threat Reduction Agency: General Counsel, DTRA.
- (vii) National Security Agency: Director of Procurement, NSA.
- (viii) Missile Defense Agency: General Counsel, MDA.

(ix) Defense Contract Management Agency: General Counsel, DCMA.

[57 FR 42629, Sept. 15, 1992, as amended at 59 FR 27669, May 27, 1994; 61 FR 50452, Sept. 26, 1996. Redesignated and amended at 62 FR 34122, June 24, 1997; 64 FR 51076, Sept. 21, 1999; 68 FR 7439, Feb. 14, 2003; 69 FR 65090, Nov. 10, 2004]

PART 215—CONTRACTING BY NEGOTIATION

Subpart 215.2—Solicitation and Receipt of Proposals and Information.

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215.404-75 Fee requirements for FFRDCs.

215.404-76 Reporting profit and fee statistics.

215.406-1 Prenegotiation objectives.

215.406-3 Documenting the negotiation.

215.407-2 Make-or-buy programs.

215.407-3 Forward pricing rate agreements.

215.407-4 Should-cost review.

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215.407-5-70 Disclosure, maintenance, and review requirements.

215.408 Solicitation provisions and contract clauses.

215.470 Estimated data prices.

AUTHORITY: 41 U.S.C. 421 and 48 CFR Chapter 1.

SOURCE: 63 FR 55040, Oct. 14, 1998, unless otherwise noted.

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) Before issuing a solicitation with a tiered evaluation of offers—

(1) The contracting officer shall conduct 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 shall include 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]

Subpart 215.3—Source Selection

215.303 Responsibilities.

(b)(2) For high-dollar value and other acquisitions, as prescribed by agency procedures, the source selection au-

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thority 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