

Federal Acquisition Regulation

15.201

(see 15.306(d)), the Government must comply with 15.306 and 15.307.

[62 FR 51230, Sept. 30, 1997, as amended at 71 FR 57363, Sept. 28, 2006; 72 FR 63078, Nov. 7, 2007; 73 FR 33638, June 12, 2008; 74 FR 2729, Jan. 15, 2009]

Subpart 15.2—Solicitation and Receipt of Proposals and Information

15.200 Scope of subpart.

This subpart prescribes policies and procedures for—

- (a) Exchanging information with industry prior to receipt of proposals;
- (b) Preparing and issuing requests for proposals (RFPs) and requests for information (RFIs); and
- (c) Receiving proposals and information.

15.201 Exchanges with industry before receipt of proposals.

(a) Exchanges of information among all interested parties, from the earliest identification of a requirement through receipt of proposals, are encouraged. Any exchange of information must be consistent with procurement integrity requirements (see 3.104). Interested parties include potential offerors, end users, Government acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition.

(b) The purpose of exchanging information is to improve the understanding of Government requirements and industry capabilities, thereby allowing potential offerors to judge whether or how they can satisfy the Government's requirements, and enhancing the Government's ability to obtain quality supplies and services, including construction, at reasonable prices, and increase efficiency in proposal preparation, proposal evaluation, negotiation, and contract award.

(c) Agencies are encouraged to promote early exchanges of information about future acquisitions. An early exchange of information among industry and the program manager, contracting officer, and other participants in the acquisition process can identify and resolve concerns regarding the acquisition strategy, including proposed contract type, terms and conditions, and

acquisition planning schedules; the feasibility of the requirement, including performance requirements, statements of work, and data requirements; the suitability of the proposal instructions and evaluation criteria, including the approach for assessing past performance information; the availability of reference documents; and any other industry concerns or questions. Some techniques to promote early exchanges of information are—

- (1) Industry or small business conferences;
- (2) Public hearings;
- (3) Market research, as described in part 10;
- (4) One-on-one meetings with potential offerors (any that are substantially involved with potential contract terms and conditions should include the contracting officer; also see paragraph (f) of this section regarding restrictions on disclosure of information);
- (5) Presolicitation notices;
- (6) Draft RFPs;
- (7) RFIs;
- (8) Presolicitation or preproposal conferences; and
- (9) Site visits.

(d) The special notices of procurement matters at 5.205(c), or electronic notices, may be used to publicize the Government's requirement or solicit information from industry.

(e) RFIs may be used when the Government does not presently intend to award a contract, but wants to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to these notices are not offers and cannot be accepted by the Government to form a binding contract. There is no required format for RFIs.

(f) General information about agency mission needs and future requirements may be disclosed at any time. After release of the solicitation, the contracting officer must be the focal point of any exchange with potential offerors. When specific information about a proposed acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential offerors, that information must be made available to the public as soon as practicable, but no later than

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the next general release of information, in order to avoid creating an unfair competitive advantage. Information provided to a potential offeror in response to its request must not be disclosed if doing so would reveal the potential offeror's confidential business strategy, and is protected under 3.104 or subpart 24.2. When conducting a presolicitation or preproposal conference, materials distributed at the conference should be made available to all potential offerors, upon request.

[62 FR 51230, Sept. 30, 1997, as amended at 67 FR 13056, Mar. 20, 2002]

15.202 Advisory multi-step process.

(a) The agency may publish a presolicitation notice (see 5.204) that provides a general description of the scope or purpose of the acquisition and invites potential offerors to submit information that allows the Government to advise the offerors about their potential to be viable competitors. The presolicitation notice should identify the information that must be submitted and the criteria that will be used in making the initial evaluation. Information sought may be limited to a statement of qualifications and other appropriate information (e.g., proposed technical concept, past performance, and limited pricing information). At a minimum, the notice shall contain sufficient information to permit a potential offeror to make an informed decision about whether to participate in the acquisition. This process should not be used for multi-step acquisitions where it would result in offerors being required to submit identical information in response to the notice and in response to the initial step of the acquisition.

(b) The agency shall evaluate all responses in accordance with the criteria stated in the notice, and shall advise each respondent in writing either that it will be invited to participate in the resultant acquisition or, based on the information submitted, that it is unlikely to be a viable competitor. The agency shall advise respondents considered not to be viable competitors of the general basis for that opinion. The agency shall inform all respondents that, notwithstanding the advice provided by the Government in response

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to their submissions, they may participate in the resultant acquisition.

15.203 Requests for proposals.

(a) Requests for proposals (RFPs) are used in negotiated acquisitions to communicate Government requirements to prospective contractors and to solicit proposals. RFPs for competitive acquisitions shall, at a minimum, describe the—

- (1) Government's requirement;
- (2) Anticipated terms and conditions that will apply to the contract. The solicitation may authorize offerors to propose alternative terms and conditions. If the solicitation permits offerors to submit one or more additional proposals with alternative line items (see 52.204-22 or 52.212-1(e)), the evaluation approach should consider the potential impact of the alternative line items on other terms and conditions or the requirement (e.g., place of performance or payment and funding requirements) (see 15.206);
- (3) Information required to be in the offeror's proposal; and
- (4) Factors and significant subfactors that will be used to evaluate the proposal and their relative importance.

(b) An RFP may be issued for OMB Circular A-76 studies. See subpart 7.3 for additional information regarding cost comparisons between Government and contractor performance.

(c) Electronic commerce may be used to issue RFPs and to receive proposals, modifications, and revisions. In this case, the RFP shall specify the electronic commerce method(s) that offerors may use (see subpart 4.5).

(d) Contracting officers may issue RFPs and/or authorize receipt of proposals, modifications, or revisions by facsimile.

(1) In deciding whether or not to use facsimiles, the contracting officer should consider factors such as—

- (i) Anticipated proposal size and volume;
- (ii) Urgency of the requirement;
- (iii) Availability and suitability of electronic commerce methods; and
- (iv) Adequacy of administrative procedures and controls for receiving,