

on September 30, 2019 is available for public inspection during regular business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554.

Correction

■ In final rule FR Doc. 2019–22842, published November 7, 2019 (84 FR 59937), on page 59964, in the first column, in amendatory instruction 3, paragraph (b)(7) is corrected to read as follows:

§ 54.316 [Corrected]

(b) * * *

(7) Recipients of Uniendo a Puerto Rico Fund Stage 2 fixed and Connect USVI Fund fixed Stage 2 fixed support shall provide: On an annual basis by the last business day of the second calendar month following each service milestone in § 54.1506, a certification that by the end of the prior support year, it was offering broadband meeting the requisite public interest obligations specified in § 54.1507 to the required percentage of its supported locations in Puerto Rico and the U.S. Virgin Islands as set forth in § 54.1506. The annual certification shall quantify the carrier's progress toward or, as applicable, completion of deployment in accordance with the resilience and redundancy commitments in its application and in accordance with the detailed network plan it submitted to the Wireline Competition Bureau.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2020–25145 Filed 12–4–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[WT Docket No. 19–348; Report No. 3163; FRS 17254]

Petition for Reconsideration of Action in Proceedings

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration.

SUMMARY: Petition for Reconsideration (Petition) has been filed in the Commission's proceeding by David R. Siddall, on behalf of ARRL, The National Association for Amateur Radio.

DATES: Oppositions to the Petition must be filed on or before December 22, 2020. Replies to an opposition must be filed on or before January 4, 2021.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jon Markman, Wireless Telecommunications Bureau, (202) 418–7090.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3163, released November 16, 2020. The full text of the Petition can be accessed online via the Commission's Electronic Comment Filing System at: <http://apps.fcc.gov/ecfs/>. The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: Facilitating Shared Use in the 3.1–3.55 GHz Band, FCC 20–138, published 85 FR 64062, October 9, 2020, in WT Docket No 19–348. This document is being published pursuant to 47 CFR 1.429(e). See also 47 CFR 1.4(b)(1) and 1.429(f), (g).

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–26805 Filed 12–4–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 3, 7, 13, 15, 17, and 52

[FAR Case 2015–038, Docket No. 2015–0038, Sequence No. 1]

RIN 9000–AN31

Federal Acquisition Regulation: Reverse Auction Guidance

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to provide guidance on the use of reverse auctions.

DATES: Interested parties should submit comments to the Regulatory Secretariat at one of the addresses shown below on or before February 5, 2021 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments in response to FAR case 2015–038 to <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering “FAR Case 2015–038”. Select the link “Comment Now” that corresponds with “FAR Case 2015–038.” Follow the instructions provided on the screen. Please include your name, company name (if any), and “FAR Case 2015–038” on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite “FAR case 2015–038” in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite “FAR Case 2015–038.”

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR in response to Government Accountability Office (GAO) report, GAO–14–108, Reverse Auctions: *Guidance is Needed to Maximize Competition and Achieve Cost Savings*, dated December 2013, and GAO report 18–446, Reverse Auctions: *Additional Guidance Could Help Increase Benefits and Reduce Fees*, dated July 2018. Reverse auctions are a tool utilized by Federal agencies to obtain competitive pricing for an acquisition. Some of the potential benefits of reverse auctions include increased competition, price reductions, and greater small business participation. During a reverse auction, multiple vendors compete with one another to win a contract from the Government by lowering the offered price for which the vendor is willing to sell a particular product or service. The offered price(s), but not the offerors' identity, may be revealed to all offerors during the auction, and offerors have the opportunity to submit lower priced offers during the auction.

The use of reverse auctions to obtain competitive pricing is not a new concept to the Government or industry. The reverse auction model was introduced in the mid-1990s. Many private companies now offer software and/or services to facilitate reverse auctions, as well as use reverse auctions in their own supply chain management scheme. In 1997, the FAR was also amended to permit the use of reverse auctions in Federal acquisitions. Since then, Federal agencies have been able to use reverse auctions to obtain pricing, while operating within the constructs of the FAR and any supplemental agency guidance. As a result, this rule intends to implement Governmentwide policy and guidance on reverse auctions to ensure a standardized and consistent use amongst all Federal agencies.

Between its 2013 and 2018 reports, GAO reviewed Federal agencies' use of reverse auctions over almost a decade (between 2008 and 2017). Six agencies were identified as the largest users of reverse auctions, conducting approximately 15,000 reverse auctions in 2016. Through its review of the contract awards that resulted from these agencies' use of reverse auctions, GAO found that: Reverse auctions are generally used when acquiring commercial products; reverse auctions predominately result in the award of a fixed price contract valued less than \$150,000 to a small business; the total annual value of contracts that utilize reverse auctions regularly represents less than one percent of all annual Government contract spending; and most used the services of a commercial reverse auction service provider.

GAO reviewed and analyzed various aspects of agencies' use of reverse auctions. GAO found that: Confusion exists concerning a lack of documentation about reverse auction service provider fees and their application to Federal contracts; there is a lack of sufficient data available for agencies to verify actual cost savings resulting from a reverse auction; the potential benefits of reverse auctions are not being maximized, as many reverse auctions are resulting in the receipt of only one offer or a lack of interactive competition amongst offerors (*i.e.*, the submission of more than one offer by a vendor); and when reverse auctions are used in the acquisition of items from preexisting contracts, agencies need to consider the impact of potentially paying two fees, one to use the contract and one to use the services of the reverse auction service provider, when determining whether the use of a reverse auction is cost effective, in comparison to other methods that are

available to obtain pricing for an acquisition.

As a result of its findings in 2013, GAO recommended that the Director of the Office of Management and Budget amend the FAR to address agencies' use of reverse auctions and issue Governmentwide guidance to maximize competition and savings when using reverse auctions. In response, the Office of Federal Procurement Policy issued a memorandum on June 1, 2015, entitled *Effective Use of Reverse Auctions*. This proposed rule implements the policy of the OFPP memo and addresses some of the concerns in the GAO reports.

II. Discussion and Analysis

A. New Subpart 17.8 and Associated Provision and Clauses

Amendments to the FAR are proposed by this rule. To address GAO recommendations, a new FAR subpart 17.8, Reverse Auctions, is added. This new subpart:

- Provides Governmentwide policy on: When the use of reverse auctions may be appropriate, conducting reverse auctions, and utilizing reverse auction service providers, including the evaluation of fees;
- Identifies when reverse auctions shall not be used;
- Requires contracting officers to evaluate and document that the use of a reverse auction service provider is cost effective;
- Requires agency acquisitions for reverse auction services to be competed amongst commercial reverse auction service providers, and for the resulting contract or agreement to be sufficiently documented and made available to agency contracting officers for future reference and verification needs;
- Clarifies requirements for contracting officers when conducting a reverse auction or utilizing the services of a reverse auction service provider;
- Requires the contracting officer's contact information to be available to offerors; and
- Provides guidance for situations in which only one offer is received in response to a reverse auction.

The subpart also prescribes the use of a new provision, FAR provision 52.217-XX, Reverse Auction, and two new clauses, FAR clause 52.217-YY, Reverse Auction—Orders or Calls, and 52.217-ZZ, Reverse Auction Services.

FAR provision 52.217-XX is included in solicitations when the contracting officer will utilize a reverse auction to obtain competitive pricing for an award. It notifies offerors that by submission of a quote or proposal, offerors agree to participate in the reverse auction and

agree that the Government may reveal to all offerors the offered price(s), but without revealing any offeror's identity, except for the awardee's identity subsequent to an award resulting from the auction. The provision also reserves the Government's right to cancel the auction, in the event only one offer is received, identifies that the Government may use the services of a reverse auction service provider to conduct the auction, and notifies offerors how to withdraw agreement from further participation in the auction.

FAR clause 52.217-YY is included in solicitations for and within indefinite-delivery, indefinite-quantity contracts and blanket purchase agreements (BPA) when a reverse auction may be used to award an order under the contract or agreement. The clause provides BPA holders and contractors with a notification similar to that of FAR provision 52.217-XX, but applies to delivery orders, task orders, or calls to be made under the basic contract or BPA.

FAR clause 52.217-ZZ is included in solicitations and contracts for reverse auction services and specifies requirements for reverse auction service providers that provide reverse auction services to the Government.

B. Other Amendments to the FAR

To implement reverse auction guidance, this rule proposes additional FAR amendments as follows:

A definition for "reverse auction" is provided in FAR 2.101.

In FAR 3.104-4, language is added to show that during reverse auctions, agencies may reveal to all offerors the offered price(s), but may not reveal any offeror's identity except for the awardee's identity subsequent to an award resulting from the auction.

FAR 7.105(b)(4) is revised to address "reverse auctions" under acquisition plan requirements.

FAR 13.104 is revised to refer contracting officers to the requirements of proposed subpart 17.8 when promoting competition and utilizing simplified acquisition procedures.

The limitations at FAR 15.306(e)(3) are revised to permit the Government to reveal to all offerors the offered price(s), without revealing any offeror's identity, when having exchanges with offerors under negotiated acquisition procedures and utilizing a reverse auction to obtain pricing.

FAR 17.000(d) is added to include reverse auctions in the list of special contracting methods in part 17.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-The-Shelf Items

The reverse auction provision and clauses are available for use at or below the simplified acquisition threshold, and for commercial items, including commercially available off-the-shelf items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to revise the Federal Acquisition Regulation (FAR) in response to a Government Accountability Office (GAO) report, GAO-14-108, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings*, dated December 2013, and GAO report 18-446, *Reverse Auctions: Additional Guidance Could Help Increase Benefits and Reduce Fees*, dated July 2018. Reverse auctions are a tool utilized by Federal agencies to increase competition and reduce the cost of certain items. During a reverse auction, offerors provide sequentially lower prices in an effort to win the contract award. The GAO report noted that the FAR does not specifically address reverse auctions and recommended that the Office of Management and Budget (OMB) take steps to amend the FAR to address agencies' use of reverse auctions.

This proposed rule implements the June 1, 2015, Office of Federal Procurement Policy

memorandum, *Effective Use of Reverse Auctions*, and addresses some of the concerns in the GAO reports. The objective of the rule is to ensure the effective use of reverse auctions to procure supplies and services within the Federal Government.

The Government does not currently collect data on the number of awards that utilized a reverse auction to obtain pricing. However, GAO report 18-446 indicates that, while the total value of contracts awarded annually that utilize reverse auctions represents less than one percent of all annual Government contract spending, a majority of the annual contracts awarded that utilize reverse auctions are awarded to small business entities.

The proposed rule does not impose any Paperwork Reduction Act reporting or recordkeeping requirements on any small entities. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternative approaches were considered. It is not anticipated that the proposed rule will have a significant economic impact on small entities.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2015-038) in correspondence.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 2, 3, 7, 13, 15, 17, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA are proposing to amend 48 CFR parts 2, 3, 7, 13, 15, 17, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 3, 7, 13, 15, 17, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101(b)(2) by adding in alphabetical order a definition for “Reverse auction” to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Reverse auction means the process for obtaining pricing, usually supported by an electronic tool, where offerors see competing offerors' price(s), without disclosure of the competing offerors' identity, and have the opportunity to submit lower priced offers until the close of the auction.

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 3. Amend section 3.103-2 by adding paragraph (a)(1)(iv) to read as follows:

3.103-2 Evaluating the certification.

(a) * * *

(1) * * *

(iv) Participating in a reverse auction (see subpart 17.8).

* * * * *

■ 4. Amend section 3.104-4 by revising paragraph (e)(1) to read as follows:

3.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

* * * * *

(e) * * *

(1) A contractor from disclosing its own bid or proposal information or the recipient from receiving that information. During reverse auctions, agencies may reveal to all offerors the offered price(s), but may not reveal any offeror's identity except for the awardee's identity subsequent to an award resulting from the auction (see subpart 17.8);

* * * * *

PART 7—ACQUISITION PLANNING

7.105 [Amended]

■ 5. Amend section 7.105 by removing from paragraph (b)(4) introductory text “including” and adding “including the basis for using a reverse auction (when applicable),” in its place.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 6. Amend section 13.104 by adding paragraph (c) to read as follows:

13.104 Promoting competition.

* * * * *

(c) When conducting a reverse auction, see subpart 17.8.

PART 15—CONTRACTING BY NEGOTIATION

■ 7. Amend section 15.306 by revising paragraph (e)(3) to read as follows:

15.306 Exchanges with offerors after receipt of proposals.

* * * * *

(e) * * *

(3) Reveals an offeror's price without that offeror's permission. However, the contracting officer may inform an offeror that its price is considered by the Government to be too high, or too low, and reveal the results of the analysis supporting that conclusion. It is also permissible, at the Government's discretion, to indicate to all offerors the cost or price that the Government's price analysis, market research, and other reviews have identified as reasonable (41 U.S.C. 2102 and 2107). When using reverse auction procedures (see subpart 17.8), it is also permissible to reveal to all offerors the offered price(s), without revealing any offeror's identity;

* * * * *

PART 17—SPECIAL CONTRACTING METHODS

■ 8. Revise section 17.000 by—

- a. Removing from paragraph (b) the word “and”;
- b. Removing from paragraph (c) “contracting,” and adding “contracting; and” in its place; and
- c. Adding paragraph (d).

The addition reads as follows:

17.000 Scope of part.

* * * * *

(d) The use of reverse auctions to obtain competitive pricing.

■ 9. Add subpart 17.8 to read as follows:

Subpart 17.8—Reverse Auctions

Sec.

- 17.800 Scope of subpart.
- 17.801 Definition.
- 17.802 Policy.
- 17.803 Applicability.
- 17.804 Procedures.
- 17.805 Solicitation provision and contract clauses.

Subpart 17.8—Reverse Auctions

17.800 Scope of subpart.

This subpart prescribes policies and procedures for conducting reverse auctions and utilizing reverse auction service providers.

17.801 Definition.

As used in this subpart, *reverse auction service provider* means a

commercial or Government entity that provides a means for conducting reverse auctions when acquiring supplies or services to be used by the Government.

17.802 Policy.

(a) The use of reverse auctions may be appropriate when market research indicates that—

(1) A competitive marketplace exists for the supplies and/or services being acquired;

(2) Multiple offerors can satisfy the agency's requirement; and

(3) The nature of the supplies and/or services being acquired (*e.g.*, clearly defined specifications, less complex requirements) encourages an iterative bidding process (*i.e.*, multiple offerors participate and at least one offeror submits more than one offer during the reverse auction).

(b) The reverse auction process is used to obtain pricing for an acquisition. When using the reverse auction process, contracting officers are still required to follow the acquisition policies and procedures (*i.e.*, subpart 8.4 or 16.5 or part 13 or 15) prescribed elsewhere in the FAR, as appropriate for the particular acquisition.

(c)(1) A service platform for conducting reverse auctions may be provided by a commercial or Government entity.

(2) While some reverse auction service providers are paid directly by the Government for reverse auction services, other providers may incorporate a fee structure that uses an indirect payment method. When using an indirect payment method, the reverse auction service provider adds a fee(s) to the price of the winning offer that is provided to the Government at the close of an auction. The Government then pays the winning offeror the total price of the offer, which includes the fee(s) added by the reverse auction service provider. The reverse auction service provider then collects its fee(s) from the winning offeror.

(3) When acquiring reverse auction services to be provided by a commercial reverse auction service provider, agencies shall—

(i) Compete the requirement;

(ii) Sufficiently detail the provider's fee structure in the resultant contract or agreement for reverse auction services; and

(iii) Make the details of the contract or agreement for reverse auction services, including the provider's fee structure, available to contracting officers for consideration when determining whether to use a reverse auction service provider, in accordance with 17.804(a).

(d) Contracting officers shall only use the services of a reverse auction service provider that—

(1) Does not assert or imply that it can or will obtain a Government contract for participants of a reverse auction;

(2) Allows entities to register, at no cost, as potential offerors for reverse auctions conducted on behalf of the Government on the provider's reverse auction platform;

(3) Allows each entity, as part of the registration process, the opportunity to execute a proprietary data protection agreement with the provider; provided that the terms in the agreement do not affect the terms and conditions of a Government solicitation or contract;

(4) Protects from unauthorized use or disclosure and does not release outside of the Government—

(i) All contractor bid or proposal information (see 3.104–1) and source selection information associated with providing reverse auction services to the Government;

(ii) All information similarly generated to support the issuance of a task or delivery order or call against a blanket purchase agreement; and

(iii) Information identified by an offeror as restricted from duplication, use, or disclosure—in whole or in part—for any purpose other than to evaluate the reverse auction participant's price or proposal;

(5) At the close of each auction—

(i) Provides the Government with the winning offer, along with information that separately identifies the offeror's price and the price for each provider fee or charge included in the total price;

(ii) Provides the Government with all information and documentation received from offerors in response to the reverse auction; and

(iii) Removes all documentation received from offerors in response to the reverse auction from its business and computer systems;

(6) Does not participate as an offeror in any reverse auction which the provider is hosting on behalf of the Government. This prohibition includes participation in a reverse auction by any entity with which the provider has a relationship that raises an actual or potential conflict of interest; and

(7) Asserts no rights or license in the data gathered or generated during a reverse auction.

(e) Only a contracting officer shall—

(1) Exclude an offeror from participating in an auction;

(2) Determine the awardee(s) of any reverse auction; or

(3) Determine that the offeror is a responsible prospective contractor (see 9.103, 9.104–1, and 9.405(d)).

17.803 Applicability.

Reverse auction processes shall not be used for—

- (a) Design-build construction contracts (see part 36);
- (b) Sealed bids (see part 14); or
- (c) Acquisition of personal protective equipment.

17.804 Procedures.

(a) When considering the use of a reverse auction service provider, the contracting officer shall—

(1) Conduct market research for available sources of reverse auction services (*e.g.*, existing agency contracts or agreements (see 17.802(c)), commercial service providers (see 17.802(d)), or Government service providers);

(2) Evaluate the fee structure for each reverse auction service provider; and

(3) Document the contract file with a determination that the use of a reverse auction service provider is cost effective.

(b) When conducting a reverse auction, the contracting officer shall—

(1) Only provide the offered price(s) to all offerors, without disclosing the identity of the offeror(s) (see 3.104–4(a) and (e)(1));

(2) Allow offerors the opportunity to continually revise their prices downward during the reverse auction until the close of the auction; and

(3) Allow an offeror to withdraw an offer from further consideration prior to the close of an auction.

(c) When using the services of a reverse auction service provider, contracting officers shall—

(1) Include contact information in the solicitation that will allow offerors to contact the contracting officer directly with any questions;

(2) Upon receipt of a winning offer, verify that any provider fees or charges included in the price are in accordance with the provider's fee structure, as evaluated in accordance with paragraph (a)(2) of this section; and

(3) Include in the contact file any information and/or documentation received by the reverse auction service provider from offerors responding to the reverse auction.

(d) If only one offeror participates in an auction, the contracting officer may—

(1) Cancel the auction and document the contract file with evidence of the participation of only one offeror; or

(2) Accept the offer, only if the price is determined to be fair and reasonable (see 13.106–3(a)(2) and 15.404–1).

17.805 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the provision at 52.217–XX, Reverse Auction, in solicitations, when the contracting officer is utilizing a reverse auction to award a contract or blanket purchase agreement.

(b) The contracting officer shall insert the clause at 52.217–YY, Reverse Auction-Orders or Calls, in solicitations and contracts for a multiple award indefinite-delivery/indefinite-quantity contract or blanket purchase agreement, and a reverse auction may be used to place orders or calls under the basic contract or blanket purchase agreement.

(c) The contracting officer shall insert the clause at 52.217–ZZ, Reverse Auction Services, in all solicitations and contracts for the purchase of reverse auction services.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 10. Add sections 52.217–XX, 52.217–YY, and 52.217–ZZ to read as follows:

* * *	
52.217–XX	Reverse auction.
52.217–YY	Reverse auction-orders or calls.
52.217–ZZ	Reverse auction services.
* * *	

52.217–XX Reverse auction.

As prescribed in 17.805(a), insert the following provision:

Reverse Auction (Date)

(a) *Definitions.* As used in this provision—
Reverse auction means the process for obtaining pricing, usually supported by an electronic tool, where offerors see competing offerors' price(s), without disclosure of the competing offerors' identity, and have the opportunity to submit lower priced offers until the close of the auction.

Reverse auction service provider means a commercial or Government entity that provides a means for conducting reverse auctions when acquiring supplies or services to be used by the Government.

(b) *Reverse auction.* The Government intends to conduct a reverse auction under this solicitation to award a contract or blanket purchase agreement.

(c) *Offeror agreement.* By submission of a quote or proposal in response to the solicitation, the Offeror agrees to participate in the reverse auction, and agrees that the Government may reveal to all Offerors the offered price(s) in the auction, without revealing any Offeror's identity, except for the awardee's identity subsequent to an award resulting from the auction. The Offeror may withdraw its agreement to further participate in the process by withdrawing its offer before the close of the auction by notifying the Contracting Officer via the contact method identified in the solicitation.

(d) *Only one offer.* If the reverse auction produces only one offer, the Government reserves the right to cancel the auction.

(e) *Release of information.* The Government may use a reverse auction service provider to conduct the reverse auction. Any price or proposal information or source selection information received by the reverse auction service provider in relation to the reverse auction shall not be released, outside of the Government, unless otherwise required by law. However, this does not prevent the Government from revealing to all Offerors the offered price(s) in the auction, without revealing any Offeror's identity. Price or proposal information includes, but is not limited to—

(1) Contractor bid or proposal information, as defined at Federal Acquisition Regulation 3.104–1; and

(2) Information identified by the Offeror as restricted from duplication, use, or disclosure—in whole or in part—for any purpose other than to evaluate the Offeror's price or proposal.

(End of Provision)

52.217–YY Reverse auction-orders or calls.

As prescribed in 17.805(b), insert the following clause:

Reverse Auction—Orders or Calls (Date)

(a) *Definitions.* As used in this clause—
Reverse auction means the process for obtaining pricing, usually supported by an electronic tool, where offerors see competing offerors' price(s), without disclosure of the competing offerors' identity, and have the opportunity to submit lower priced offers until the close of the auction.

Reverse auction service provider means a commercial or Government entity that provides a means for conducting reverse auctions when acquiring supplies or services to be used by the Government.

(b) *Reverse auction.* The Contracting Officer may conduct a reverse auction to award an order or call under this contract or blanket purchase agreement.

(c) *Offeror agreement.* When a reverse auction is conducted under this contract or blanket purchase agreement, the following applies:

(1) The Contractor's or blanket purchase agreement holder's submission of a quote or proposal in response to the solicitation for an order or call constitutes agreement to participate in the auction.

(2) The Government may reveal to all Offerors the offered price(s) in the auction, without revealing any Offerors' identity, except for the awardee's identity subsequent to an award resulting from the auction.

(3) The Contractor or blanket purchase agreement holder may withdraw its agreement to further participation in the reverse auction by withdrawing its offer. To withdraw an offer made in response to a reverse auction solicitation issued under this contract or blanket purchase agreement, the Contractor or blanket purchase agreement holder shall notify the Contracting Officer of the request before the close of the auction via the contact method identified in the solicitation.

(4) If the reverse auction produces only one offer, the Government reserves the right to cancel the auction.

(d) *Release of information.* The Government may use a reverse auction service provider to conduct the reverse auction. Any price or proposal information or source selection information received by the reverse auction service provider in relation to the reverse auction shall not be released, outside of the Government. However, this does not prevent the Government from revealing to all Offerors the offered price(s) in the auction, without revealing any Offeror's identity. Price or proposal information includes, but is not limited to—

(1) Contractor bid or proposal information, as defined at Federal Acquisition Regulation 3.104-1;

(2) Price or proposal information similarly generated for a task or delivery order or a call against a blanket purchase agreement; and

(3) Information identified by the Offeror as restricted from duplication, use, or disclosure—in whole or in part—for any purpose other than to evaluate the Offeror's price or proposal.

(End of Clause)

52.217-ZZ Reverse auction services.

As prescribed in 17.805(c), insert the following clause:

Reverse Auction Services (Date)

(a) *Definition.* *Reverse auction* means the process for obtaining pricing, usually supported by an electronic tool, where offerors see competing offerors' price(s), without disclosure of the competing offeror's identity, and have the opportunity to submit

lower priced offers until the close of the auction.

(b) *Duties of the reverse auction service provider.* When providing reverse auction services to the Government, the Contractor shall—

(1) Not assert or imply that it can or will obtain a Government contract for the participants of a reverse auction;

(2) Allow entities to register, at no cost, as potential offerors for any reverse auction conducted on behalf of the Government on the provider's reverse auction platform. As part of the registration process, the Contractor shall allow each entity the opportunity to execute a proprietary data protection agreement with the Contractor; however, the Contractor shall not negotiate terms in the agreement that affect the terms and conditions of a Government solicitation or contract;

(3) Protect from unauthorized use or disclosure and not release outside of the Government any price or proposal information or any source selection information (see the "source selection information" definition in Federal Acquisition Regulation (FAR) 2.101) received by the Contractor in relation to a reverse auction. However, this does not prevent the Contractor from revealing to all reverse auction participants the offered price(s) in the auction, without revealing any reverse auction participants' identity. Price or proposal information shall include, but is not limited to—

(i) Contractor bid or proposal information, as defined at FAR 3.104-1;

(ii) Price or proposal information similarly generated for a task or delivery order or a call against a blanket purchase agreement; and

(iii) Information identified by the reverse auction participant as restricted from duplication, use, or disclosure—in whole or in part—for any purpose other than to evaluate the reverse auction participant's price or proposal;

(4) Not participate as an offeror in any reverse auction which the Contractor is hosting on behalf of the Government. This prohibition includes participation in a reverse auction by any entity with which the Contractor has a relationship that raises an actual or potential conflict of interest;

(5) At the close of each auction—

(i) Provide the Contracting Officer with the winning offer, along with information that separately identifies the offeror's price and the price for each provider fee or charge included in the total price;

(ii) Provide the Contracting Officer with all information and documentation received from reverse auction participants in response to the reverse auction; and

(iii) Remove all documentation received from reverse auction participants in response to the reverse auction from its business and computer systems; and

(6) Assert no right or license in the data gathered or generated during a reverse auction.

(End of Clause)

[FR Doc. 2020-24936 Filed 12-4-20; 8:45 am]

BILLING CODE 6820-EP-P