

## **115 CONTRACTING BY NEGOTIATION**

### **115.0 SCOPE**

#### **115.000 Scope of part.**

(U) This part prescribes policies and procedures governing competitive and noncompetitive negotiated acquisitions.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

### **115.1 SOURCE SELECTION PROCESSES AND TECHNIQUES**

#### **115.101 Best value continuum**

(U) Agency contracting officers may utilize one or any combination of the processes identified in FAR Subpart 15.101. Acquisition professionals must select a process and tailor it to meet the requirements of the specific acquisition.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

#### **115.101-2 Lowest price technically acceptable source selection process**

(U) (b)(1) A contracting officer shall not refer determinations that a small business' past performance is not acceptable to the Small Business Administration as required in FAR 15.101-2(b)(1).

CCM Release Number: 2004-1  
Release Date: 9/14/2004

### **115.2 SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION**

#### **115.201 Exchanges with industry before receipt of proposals**

(U) (a) Acquisition professionals are encouraged to participate in the exchanges discussed in FAR 15.201. Exchanges shall be in accordance with applicable security procedures.

(U) (c) Contracting officers shall issue complete draft RFPs, which include Sections B through M and a Statement of Work, for all competitive solicitations equal to or greater than \$1,000,000 on an annual basis. Draft RFPs shall be coordinated with Security personnel. Contracting officers should allow at least 15 business days from the date of release for offerors to respond with comments on the draft RFP. Contracting officers are also encouraged to advise prospective offerors of the RFP's status.

(U) (d) The Agency is not required to provide either special notices of procurement matters or electronic notices to publicize the Government's requirement or solicit information from industry as prescribed in FAR 5.205 (See CCM 105.0).

(U) (f) During the interval between the submission of the procurement request and award of a contract, discussion of the procurement with prospective contractors and the transmission of technical or other information shall be conducted only by the contracting officer or other personnel specifically designated by the contracting officer for that purpose. FAR Subpart 15.306 addresses other limitations on exchanges before award.

CCM Release Number: 2005-7  
Release Date: 5/19/2005

### **115.201-70 Other exchanges with offerors before receipt of proposals.**

(U) (a) For sole source procurements, and when otherwise appropriate, contracting officers may provide opportunities for incumbent contractors to collaborate on the development of technical requirements and statements of work.

(U) (b) Contracting officers shall generally not advise offerors of the amount of funds programmed for a particular requirement. However, when the contracting officer and COTR cannot precisely define the scope of work, (for example, procurements involving basic research, exploratory development, or studies) the contracting officer may set forth the Agency's level-of-effort estimate and/or the amount of funds available for the procurement.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

### **115.202 Advisory multi-step process.**

(U) (a) Consistent with CCM 105.0, contracting officers shall not publish presolicitation notices in the GPE or use such notices as a method to determine a competitor's viability. Market research is the appropriate method for developing a bidders list.

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Release Date: 9/14/2004

### **115.203 Requests for proposals.**

(U) (a) Requests for Proposals (RFPs) shall be prepared by the contracting office, with assistance from technical and other offices as required, and issued by the contracting officer. The RFP shall contain all information necessary to enable a prospective offeror to prepare a proposal properly, including a statement of work, specifications, and proposed contract work breakdown structure. All information shall be set forth in full text in the solicitation document, except for clauses, provisions, and other supporting documents that the contracting officer has determined are appropriate for incorporation by reference. Contracting officers base their decision to incorporate text by reference upon FAR guidance, security concerns, and general availability.

(U) (a)(3) When the contracting officer plans a competitive procurement requiring submission of detailed cost and pricing data, the contracting officer is encouraged to request audit (FIN) [ ] review and comment on the RFP's Section L instructions concerning cost/price proposal preparation. If a cost reimbursable contract is contemplated, then FIN [ ] should be contacted to assure the contractor is capable of contracting on a cost reimbursement basis. Contracting officers may also request that FIN [ ] assist in performing a pre-award survey

(b)(3)  
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(b)(3)

when they issue solicitations to new vendors. The pre-award survey will assure that the vendor is financially viable and has appropriate cost accounting systems in place to perform the prospective contract type (See CCM 109.106-1).

(U)(b) Per CCM 107.301, the procedures set forth in OMB Circular A-76 do not apply to the Agency.

CCM Release Number: 2005-8  
Release Date: 8/31/2005

### **115.203-70 Use of non-government advisors.**

(U) (a) When appropriate, contracting officers may request approval to use non-government personnel as advisors to assist the Agency to prepare solicitations and/or evaluate proposals. The advisors shall participate as non-voting members. Normally, the Agency permits outside advisors to evaluate only technical/management proposals.

(1) The contracting officer shall prepare the request to use non-government advisors' assistance. The contracting officer submits the request to the cognizant Source Selection Authority in sufficient time to arrange for the individual's services once the request is approved. The contracting officer, COTR, and the Source Selection Authority shall sign the request. The request shall include the following information:

(i) The identity of the required individual(s), by name if known.

(ii) The current employment status of such individual(s) and comment on any potential financial or organizational conflict of interest and the competitive relationship, if any, between the prospective prime contractors (and their subcontractors) and the prospective non-government advisor(s).

(iii) A justification of the need for outside advisory assistance by providing specific details of the solicitation requirements which explain the necessity to supplement internal expertise with non-government experts.

(iv) Summarize the scope of the services the advisors will perform and provide the following as attachments to this request:

(A) For solicitation preparation services - a copy of the Statement of Work describing the duties and responsibilities of the non-government advisors.

(B) For proposal evaluation services - those portions of the Source Selection Plan and the solicitation itself which describe the duties and responsibilities of the non-government advisors.

(2) Upon approval of the use of non-government advisors, the contracting officer shall:

(i) Make all arrangements (including contracts or purchase orders, as necessary) for acquiring the advisor's services.

(ii) Brief the non-government advisors on: non-disclosure of proprietary proposal information, organizational conflicts of interest and potential limitation on future contracting opportunities, and obtain completed and signed Confidentiality Agreement and Conflict of Interest Certification and Non-Disclosure Agreement

forms from each non-government advisor. A blank copy of this form is in Part 109 of the CCG. Contracting officers must use the Agency standard form unless the Source Selection Authority approves another form.

(iii) Brief the advisors on their duties and responsibilities as specified in the Statement of Work or Source Selection Plan. Emphasize that, as proposal evaluators, they shall not score the proposals they review but shall confine their assistance to such activities as:

- Providing expert analyses of proposals, including the identification of strengths and weaknesses;
- Generating clarification requests, deficiency requests, and discussion questions; and
- Recommending which offerors should be in the competitive range.

(iv) Upon receipt of all the appropriate certifications, ensure the delivery of all proposal materials, the Source Selection Plan, Section M of the solicitation, and any other evaluation materials as required.

(v) Obtain a debriefing certificate from each advisor upon conclusion of the evaluation process (See CCG Part 109 for a sample).

(vi) Ensure that the solicitation contains the appropriate language regarding the use of non-government advisors as proposal evaluators (See CCM 152.215-728, Evaluation by Consultants) and act as the sole point of contact between prospective contractors and Agency personnel for questions concerning the propriety of using outside advisors.

CCM Release Number: 2005-8  
Release Date: 8/31/2005

#### **115.204 Contract format.**

(U) It is Agency policy that all solicitations contain a cover letter.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

#### **115.204-5 Part IV - Representations and Instructions.**

(U) (b) Section L shall note that a Past Performance questionnaire will be used to collect past performance information. The solicitation shall include a past performance questionnaire in Section J, tailored to the specific past performance evaluation factors of the acquisition, that will document information received from references. Past performance information pertaining to a subcontractor (or teaming partner) cannot be disclosed to a private party without the subcontractor's consent. Because a prime contractor is a private party, the Government needs to obtain consent before disclosing the subcontractor's past performance information to the prime contractor during exchanges with offerors after receipt of proposals. Section L shall instruct the prime contractor to submit the consent of all subcontractors, identified in the past performance volume of the proposal, along with the prime's proposal. The solicitation shall include a sample consent letter in Section J. An exemplar consent letter is available in CCG Part 115, Subcontractor Consent Letter.

(U) (c) Section M, Evaluation Factors, is only required in competitive solicitations. FAR provision 52.212-2 contains a template for commercial item evaluation factors, although the

same principles apply as described herein for Section M. Section M is a critical part of the competitive solicitation since it defines the evaluation process and evaluation factors to the offerors. The contracting officer develops Section M from the Source Selection Plan. The Section M evaluation criteria should list the criteria in descending order of importance and must be consistent with the Source Selection Plan.

CCM Release Number: 2007-17  
Release Date: 3/30/2007

### **115.205 Issuing solicitations.**

(U) (a) Before issuing any solicitation, the contracting officer shall ensure that the following actions have been completed:

- (1) All necessary approvals have been obtained and an Operating Official has indicated, in a funding document or a memorandum stating availability of, the amount of funding available for the contemplated procurement; and
- (2) If the proposed procurement is competitive, a Source Selection Plan (SSP) has been prepared and approved. Contracting officers may find detailed guidance concerning the content and format of a SSP in the CCG Part 115 Source Selection Plan template.
- (3) Legal review requirements in Section 107.7100 have been met.
- (4) The security requirements in Subpart 104.4 have been met.

CCM Release Number: 2004-2  
Release Date: 9/26/2005

### **115.207-70 Handling proposals, information, and non-disclosure agreements.**

(U) (a) Non-disclosure agreements are agreements between individuals and a commercial corporation or the government under which a party agrees not to use certain information provided by the corporation or the government for any purpose other than that for which the information was provided. Non-disclosure agreements would be appropriate for use, for example, when non-government advisors assist in evaluating proposals. The non-government advisors shall sign a non-disclosure agreement with the Agency whereby they agree not to use any of the proposal information for any purpose other than the evaluation on behalf of the government. Offerors submitting proposals may also want to require a non-disclosure agreement between the non-government advisor and the offeror. (See CCG Part 109 for the Agency standard non-disclosure agreement that the non-government advisor must sign).

(U) (b) A commercial entity may request that Agency personnel sign non-disclosure agreements prior to conducting business or briefings which involve proprietary information or trade secrets. Since the use of non-disclosure agreements may subject the Agency or its employees to liability, such non-disclosure agreements shall be coordinated with CLD/OGC before signing.

CCM Release Number: 2004-2  
Release Date: 9/15/2004

## **SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION**

### **115.209-70 Solicitation provisions and contract clauses.**

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Date Released: 06/22/2006

(U) (a) Except as noted below, the contracting officer shall include the solicitation provisions and contract clauses referenced in FAR 15.209 in contracts and solicitations as appropriate:

(1) The contracting officer shall insert the clause at 152.215-700, Audit and Records - Negotiation, or Alternate II thereto, in lieu of FAR clause 52.215-2 or Alternate II thereto. The conditions for use are the same as those set forth at FAR 15.209(b)(1) and 15.209(b)(3). The Agency specific clauses remove the paragraph allowing access to the records by the Comptroller General.

(2) Use clause 152.215-720, Intention to Use Consultants, in solicitations and contracts when the use of non-government advisors will be required. Contracting officers place this clause in Section H for non-commercial contracts or in the addenda for commercial contracts. See CCM 115.203-70 for guidance on use of non-government advisors.

(3) Use clause 152.215-728, Evaluation By Consultants, in solicitations when non-government advisors will be required to assist with the evaluation of proposals. Contracting officers place this provision in Section H for solicitations. See CCM 115.203-70 for guidance on use of

non-government advisors.

(4) Use clause 152.215-724, Key Personnel, in cost-reimbursement, time-and-materials, labor-hour, or fixed-price level-of-effort solicitations and contracts when it is determined that it would be in the Agency's best interests to have the key management, technical, and administrative personnel identified. Contracting officers place this clause in Section H for non-commercial contracts.

(5) Use clause 152.215-717, Timely Notice of Litigation, in all solicitations and contracts. This clause is to be placed in Section I for non-commercial contracts or is included as part of the addenda in commercial contracts (see 112.301).

(6) Use clause 152.215-718, Testing Related to Electronic Communication Equipment, in all solicitations and contracts that will require or permit testing electronic communication equipment. Contracting officers place this clause in Section E.

(7) Use clause 152.215-719, Incorporation of Section K, Representations, Certifications, and Other Statements of Offerors, in all non-commercial contracts, in order to incorporate Section K into the contract document by reference. Contracting officers place this clause in Section H. (For commercial contracts, see Section 112.301.)

(8) Reserved.

(9) In lieu of FAR clause 52.215-8, contracting officers shall use clause 152.215-721 (Order of Precedence), in all non-commercial contracts and solicitations. Paragraph (a) (1) through (5) may be modified as appropriate. This clause is to be placed in Section H.

(10) In the preparation of proposal presentation instructions for solicitations, contracting officers may use 152.215-723 (Proposal Preparation Instructions). This clause provides sample language that

contracting officers tailor to accommodate the circumstances of the procurement and insert in Section L.

(11) Reserved.

(12) The contracting officer shall insert provision 152.215-730, Basis for Contract Award, in Section M of all competitive solicitations. Contracting officers shall tailor this provision to incorporate the best value source selection decision process that the approved Source Selection Plan defines.

(13) (Applicable to solicitations issued on or after 01 February 2005) The contracting officer shall insert provision 152.215-732, Evaluation Procedures and Factors for Award, in Section M of all competitive solicitations, other than those issued using midrange procedures. The contracting officer shall insert provision 152.215-733, Evaluation Procedures and Factors for Award (Midrange), in Section M of all competitive solicitations using midrange procedures. Contracting officers shall tailor these provisions to incorporate evaluation procedures that the approved Source Selection Plan defines.



**115.210 Forms.**

(a) It is Agency policy that competitive solicitations shall contain a Standard Form 33, Solicitation, Offer, and Award.

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Release Date: 9/14/2004

**115.271 Agency procurement issue review program**

*No text.*

**115.271-1 General**

(U) The Agency Procurement Issue Review Program provides an avenue for interested parties to raise concerns during the preaward phase of competitive Agency acquisitions that cannot be resolved at the contracting officer level. In order of succession, the Contract Team Chief and Contract Group Chief will review such issues for any acquisition within their purview. Interested parties may bring matters of concern before the appropriate Contract Team Chief once they have made a good faith attempt to resolve the matter with the contracting officer. Matters that cannot be resolved by the Contract Team Chief may be brought to the Contract Group Chief for resolution.

CCM Release Number: 2007-19  
Release Date: 7/6/2007

### **115.271-2 Limitations**

(U) The Agency Procurement Issue Review Program does not replace the FAR protest process. Moreover, contacting the Contract Team Chief or Contract Group Chief does not affect the time limits for filing a protest nor entitle any offeror to a proposal deadline extension.

CCM Release Number: 2007-19  
Release Date: 7/6/2007

### **115.271-3 Procurement issue review roles**

(U) When conducting issue reviews, Contract Team Chiefs and Contract Group Chiefs shall:

(a) Serve as Agency representatives to facilitate communications between the CIA and interested parties in the resolution of matters arising during the preaward phase of competitive acquisitions;

(b) Listen to concerns about specific issues and work with the appropriate persons within the Agency to resolve such concerns before any such matter escalates into a major problem;

(c) Collect all relevant facts necessary to resolve issues raised by interested parties. Collection of source selection and proprietary information shall be coordinated with the contracting officer; and

(d) Ensure that documentation pertaining to the resolution of issues is included in the contract file.

CCM Release Number: 2007-19  
Release Date: 7/6/2007

### **115.271-4 Solicitation provision**

(U) The contracting officer shall insert the provision at 152.215-734, Procurement Issue Review Program, in all competitive solicitations. For solicitations issued under FAR Part 14 Sealed Bidding Procedures, the term "offerors" may be replaced by the term "bidders" within the provision.

CCM Release Number: 2007-19  
Release Date: 7/6/2007

## **115.3 SOURCE SELECTION**

### **115.300 Scope of subpart.**

(U) This subpart provides additional guidance to supplement the policy and procedures for source selection in competitive negotiated acquisitions set forth in FAR Subpart 15.3.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

### **115.302 Source selection objective.**

(U) (a) Agency contracting officers may use a variety of procedures to select the proposal that represents the best value to the Government. Essential principles that will enable the Government to achieve this objective are: to engage key participants in the acquisition planning, establish a requirements-based selection process, document the process in an approved Source Selection Plan, fully inform all offerors of that process, and completely adhere to that process. Contracting teams should take advantage of the flexibilities provided in both the FAR and the CCM. For example, the contracting officer may choose to combine evaluation subgroups (e.g., cost, management, and/or technical panels); and/or limit the number of participants to qualified individuals who provide the requisite technical and cost evaluations. The contracting team may tailor virtually any approach to ensure adequate levels of review appropriate to the acquisition.

(U) (b) For competitive acquisitions between \$100,000 and \$25 million, including options, Agency contracting officers may use the streamlined Midrange source selection procedures outlined in 115.370. See 115.370-103 for approval requirements.

CCM Release Number: 2005-9  
Release Date: 11/21/2005

### **115.303 Responsibilities.**

Release Number: 2007-18  
Date Released: 05/15/2007

(U) (a) In addition to the roles and responsibilities identified at FAR 15.303, the following requirements apply to Agency negotiated procurements:

(U) (b) Source Selection Authority (SSA)  
(Required)

The Source Selection Authority (SSA) is the senior contracting officer with ultimate responsibility for the source selection and discussion processes. The SSA shall be at a management level above that of the signatory contracting officer. For Agency procurements, the SSA is normally a Contract Team Chief or Deputy Team Chief with a delegation sufficient for the procurement. For procurements estimated to exceed \$100 million, inclusive of all options, the SSA shall be at the Contract Group Chief or Deputy Group Chief level. The Source Selection Official (SSO) (when applicable) assists the SSA and the Source Selection Evaluation Board (SEB) in making the decision. In addition to the responsibilities set forth in the corresponding FAR Subpart, the SSA shall:

(1) Make competitive range determinations.

(2) Document his/her independent source selection decision in a Source Selection Decision Memorandum (SSDM). The Source Selection Decision Memorandum template contains guidance concerning the content and format of a SSDM. (See CCG

Part 115.)

(U) (c) Contracting Officer (Required)

The contracting officer is responsible for coordinating the evaluation process and reviewing the products submitted to the SEB and SSA (as applicable) for approval. The contracting officer is the link between all parties in the source selection process, ensuring that everyone knows their responsibilities and fulfills them. In addition to the responsibilities identified in FAR 15.303, the contracting officer shall:

- (1) Work closely with the SEB to ensure balanced composition of appropriately qualified personnel on subgroups;
- (2) Review and approve the Source Selection Plan, including evaluation criteria, before submitting it to the SSA for final approval;
- (3) Ensure evaluation personnel are aware of their duties and responsibilities and resolve any conflict of interest issues. All members of evaluation boards, panels, and teams, including the SSA, SSO, the Cost Evaluation Team (CET), the Technical Management Evaluation Team (TMET), and members of the Source Evaluation Board (SEB) must sign a *Confidentiality Agreement and Conflict of Interest* certification before evaluation begins. Signing this certificate ensures that members have been advised in writing of their responsibilities not to disclose any procurement-related information during or following the proposal evaluation and contract award process. In addition, to further enhance the integrity of the procurement process, members must disclose any financial interest that may influence (or give the appearance of influencing) their ability to make an objective decision. The contracting officer shall place the completed forms in the RFP file.
- (4) In the event any evaluation team member believes they may have disclosed source selection information or has a financial conflict, the contracting officer determines whether the evaluation team

member violated the *Confidentiality Agreement and Conflict of Interest* certification and, if appropriate, terminates the member's participation in the source selection.

(5) Coordinate and review the initial and final recommendations of the subgroups and SEB for final approval/disapproval by the SSA and SEB as appropriate, and

(6) Ensure and maintain thorough documentation by all evaluation personnel for the contract file.

### **115.303-70 Additional responsibilities**

#### **(U) (a) Source Selection Official (SSO) (Optional)**

The role of the SSO is optional, dependent upon the cognizant directorate's practices and/or the complexity of the procurement. If used, the SSO represents the component and is generally at the Division Chief level or above. Contracting Teams may use the SSO in lieu of the SEB. The SSO shall:

- (1) Appoint the technical or project members of the Source Selection Evaluation Board (SEB), if required;
- (2) Establish or approve the evaluation criteria included in the solicitation;
- (3) Make the final recommendations to the SSA regarding which offerors should be considered in the competitive range;
- (4) Make the final recommendation to the SSA regarding the successful offeror; and
- (5) Approve by signing the initial and final recommendations of the SEB or, if he/she disapproves, document his/her recommendation to support their position.

#### **(U) (b) Source Selection Evaluation Board (SEB)**

- (1) The composition of the SEB must be tailored to the requirements of the acquisition. However, it shall have no fewer than two members: a requirements officer and a contracting officer. If the SSO is not used, the Chairman of the SEB, who is generally at the Division Chief level or above, has the authority to appoint additional members to achieve an appropriate mix of qualified management, technical, and procurement personnel commensurate with the acquisition. Non-voting members may also be appointed, but they may act only in an advisory capacity. The SEB jointly determines the necessity and composition of any subgroup (e.g., cost, management, and/or technical panels) participating in the evaluation process based upon the complexities of the acquisition. Subgroups are not required in all competitive acquisitions.
- (2) The SEB shall ensure that the necessary activities leading up to the final evaluation of all proposals are carried out and report its findings to the SSO (if used) or to the SSA. The SEB's evaluations shall be based on all available information, including proposals, team and panel reports, discussions, reference and other appropriate checks, and the personal knowledge of the individual members in their areas of expertise. The SEB shall recommend those proposals, which it believes are in the competitive range, and may continue to participate in the process. The SEB may not delegate any of these responsibilities in whole or in part. The SEB must review subgroup findings and reports, and apply its own collective judgment to arrive at evaluation conclusions to be presented to the SSA or to the SSO (if used). When reporting their findings, each member of the SEB shall sign all of the board's evaluations/recommendations and certify that they followed the source selection plan.

**(U) (c) Proposal Evaluation Subgroup(s)**

(1) Proposal evaluation subgroups are a fact-finding arm of the SEB. The SEB must keep the number of subgroups and their membership to the minimum necessary to comply with the SSP's requirements. Subgroup members must be knowledgeable and experienced in the disciplines they will evaluate. For example, a "management evaluation team" could include experts in the areas of organization, pricing, personnel, labor, contracting, and facilities.

(2) Each subgroup shall evaluate and rate each proposal, or portion thereof, that the SEB or SSO assigns to it. All subgroup members must sign their subgroup's initial and final evaluations/recommendation to the SEB. If there is a dissent, the dissenting individual or individuals shall document their opinions supporting the basis for a different recommendation. Non-voting members appointed to serve on an evaluation subgroup may only provide advisory opinions. See CCM 115.203-70 for guidance in using non-government personnel as advisors.

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**115.304 Evaluation factors and significant subfactors.**

(U) (c)(1) Cost or price. Cost or price must always be included as an evaluation factor for award, but not necessarily as a significant evaluation factor. Pursuant to FAR 15.304(e), the contracting officer shall specify whether the combination of all non-cost or price factors are significantly more important, significantly less important, or approximately equal to cost or price. The importance of cost or price may increase as the relative differences in technical and management evaluation results decrease, and may become the determinative factor. See FAR 15.101.

(U) (c)(3)(i) Past Performance. All solicitations over \$100,000 (with the exception of those set forth in FAR 15.304(c)(3)(iii)) shall include past performance as an evaluation criterion. The contracting officer shall document exceptions in the business review. When past performance is weighted, the weight assigned must be indicative of the significance that past performance will have on source selection. Consistent with the Source Selection Plan (SSP), evaluators may evaluate past performance information as a separate category or as part of a subfactor under one or more of the other categories. Offerors shall be advised that all past performance information collected and determined to be relevant to the procurement may be used to make a past performance assessment.

(U) (c)(4) Pursuant to CCM 119.201, the Agency does not evaluate the extent of small disadvantaged business participation in performing contracts.

CCM Release Number: 2007-17  
Release Date: 3/30/2007

**115.305 Proposal evaluation.**

(U) (a) Documentation by evaluation personnel is critical. This documentation serves as the basis for exchanges such as clarifications, communications, and discussions, as well as competitive range decisions and debriefings to unsuccessful offerors. Consistent with FAR 15.305, evaluators shall identify all strengths, deficiencies, and weaknesses. "Weakness" means any aspect of the proposal that increases the risk of unsuccessful contract performance. "Deficiency" means a material failure of a proposal to meet the Agency's requirement, or a combination of significant weaknesses that increases the risk of unsuccessful contract performance to an unacceptable level. Evaluation teams shall also identify questions addressing weaknesses and deficiencies identified for each proposal and specify whether each question addresses a weakness, a deficiency, or is a minor clarification. The SEB reviews these questions and the SSA approves them.

In addition, evaluators shall advise the contracting officer of the comparative differences among the proposals, based on the evaluation criteria. This advice is an essential element of the selection process and must be included in the report(s) submitted to the SEB and Contracting Officer by the evaluators.

(a)(2)(iv) In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror should

not be evaluated favorably or unfavorably. In such a case, it is Agency policy to assign a neutral rating equal to the midpoint of the evaluation point scale for past performance.

(a)(2)(v) Pursuant to CCM 119.201, the Agency is exempt from the requirement to evaluate the past performance of offerors in compliance with small disadvantaged business goals, targets, and notifications.

(U) (a)(4) *Cost Information.* The evaluation of both cost and technical proposals must address the offeror's understanding of the work and its ability to perform the contract. There is no prohibition against simultaneous review of both the cost and technical proposals by a single technical/cost evaluation team. Generally, however, evaluators should conduct the initial evaluation of technical proposals without having access to the cost proposals. The contracting officer may extract data from the cost proposal and provide it to the technical evaluators when quantitative and qualitative information in the cost proposal (e.g., kinds and quantities of labor hours and materials) is needed to properly evaluate the technical proposal. If possible, technical evaluators should also participate in evaluating cost proposals since they are in the best position to evaluate the quantitative and qualitative aspects of the cost proposals. Some or all of the technical evaluators may join the cost proposal evaluation immediately upon completion of the initial technical evaluation to achieve this objective.

(U) (b) The concept of "nonresponsive," as used in sealed bidding, is not appropriate in negotiated procurements.

(U) (c) For information on the use of support contractor personnel (non-government advisors) in proposal evaluation, see CCM 137.203 and FAR 37.203.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

### **115.306 Exchanges with offerors after receipt of proposals.**

The SSA determines the type and extent of exchanges to be conducted with each offeror.

(U) (a)(3) *Clarification and award without discussions.* If the government intended to make award without discussion and the SSA later determines that discussions are necessary (and the solicitation allows it), the contracting officer will inform all offerors that discussions will be held; a competitive range established; and discussions held with all offerors in the competitive range in accordance with FAR 15.306.

(U) (c)(2) *Competitive Range.* The contracting officer may exclude a proposal from the competitive range on the basis of adverse past performance provided the offeror has been given the opportunity to comment during communications as defined at FAR 15.306(b)(1)(i).

(U) (d) *Exchanges with offerors after establishing the competitive range.* Contracting officers are encouraged to take full advantage of the flexibility permitted by the FAR to negotiate the best deal possible with all offerors in the competitive range. The contracting officer shall tailor discussions to each offeror's proposal.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

**115.308-70 Source selection decision.**

Release Number: 2005-8  
Date Released: 08/31/2005

(U) The SSA shall document his/her award decision in a Source Selection Decision Memorandum (SSDM). The Source Selection Decision Memorandum template in the CCG Part 115 contains guidance concerning the content and format of a SSDM.

**115.370 Midrange Source Selection Procedures.**

*No text.*

**115.370-0 Scope of section.**

(U) This part prescribes optional policies and procedures for the competitive acquisition of supplies and services valued between \$100,000 and \$25 million using Agency midrange procedures. This part is supplemental to standard source selection procedures outlined in FAR Subpart 15.3.

CCM Release Number: 2005-9  
Release Date: 11/21/2005

**115.370-1 General.**

*No text.*

**115.370-101 Purpose.**

(U) This part establishes policies and procedures that implement the midrange source selection process. The CCG provides template documents in Part 115.

CCM Release Number: 2004-2  
Release Date: 9/15/2004

### **115.370-102 Definitions.**

(U) (a) **Midrange procedures** means streamlined source selection procedures that may be used for competitive acquisitions valued between \$100,000 and \$25 million.

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Release Date: 11/21/2005

### **115.370-103 Applicability.**

(U) (a) This part applies to all non-commercial acquisitions that are over \$100,000 and not more than \$25 million including options, and those commercial acquisitions within those thresholds for which the contracting officer has not elected to use FAR Subpart 13.5 procedures. Contracting officers may process acquisitions not exceeding \$10 million using midrange source selection processes at their discretion. Acquisitions that are over \$10 million require the approval of the cognizant Contracts Group Chief. In lieu of a separate memorandum, the contracting officer may use the Acquisition Plan (see 107.103(d)(1)(ii)) to obtain this approval.

(U) (b) When the acquisition estimate is within the threshold of paragraph (a) of this section and the acquisition was started using these procedures but the proposed prices/costs exceed the midrange ceiling, the acquisition may continue under midrange procedures provided that –

- (1) The successful offeror accepts incorporation of required FAR and CCM clauses applicable to larger acquisitions; and
- (2) The acquisition does not exceed \$35 million including options for the total requirement.

CCM Release Number: 2005-9  
Release Date: 11/21/2005

### **115.370-104 Policy.**

(U) (a) Unless stated otherwise, acquisitions conducted using midrange procedures shall comply with all applicable parts of the FAR and CCM.

(U) (b) Except as noted below, contracting officers shall use SF 33, Solicitation, Offer and Award, for the solicitation.

- (1) Use SF 1442, Solicitation, Offer, and Award (Construction, Alteration, or Repair), for construction acquisitions.
- (2) Use SF 1449, Solicitation/Contract/Order for Commercial Items, for commercial item acquisitions.

CCM Release Number: 2005-8  
Release Date: 8/31/2005

### **115.370-2 Planning and requirements process.**

*No text.*

### **115.370-201 Using a buying team.**

(U) The Agency midrange procedures use a *buying team* to conduct the acquisition. The buying team shall normally consist of one technical member, one contracting member, and one security member (if required), but may be augmented with additional members as necessary. Personnel providing normal functional assistance to the team (e.g., legal and audit) will not be considered a part of the team unless so designated. To function properly, the team should be given the maximum decision authority in matters related to the procurement. When higher-level management approvals are required, it will be incumbent upon the functional team member to obtain such approvals.

CCM Release Number: 2004-2  
Release Date: 9/15/2004

### **115.370-202 Organizational responsibilities.**

(U) (a) *Requiring component*: The requiring component shall appoint the technical member of the buying team. This individual will normally be an end user or the one most familiar with the technical aspects of the requirement. The technical member appointed will fulfill all of the technical responsibilities for the buying team.

(U) (b) *Contract Team*: The Contracting Team Chief shall appoint a contracting officer to the buying team. The contracting officer shall be the team leader with the ultimate responsibility to conduct the acquisition.

(U) (c) *Other supporting organizations*: Supporting organizations shall provide additional team members to perform specialized functions or to assist in evaluation of offers. Supporting team members, once designated, shall fulfill all applicable responsibilities to the team.

CCM Release Number: 2005-8  
Release Date: 8/31/2005

### **115.370-203 Buying team responsibilities.**

(U) (a) The buying team shall conduct the acquisition in a manner that best satisfies the user's requirements and provides best value to the Government. Team members should develop open communications, rely on decisions of other responsible functional team members, and meet their obligations to the team. The team shall:

- (1) Refine the solicitation's final specifications or statement of work;
- (2) Decide the most appropriate solicitation method;
- (3) Establish milestones for the acquisition;

- (4) Finalize the evaluation criteria;
- (5) Develop the RFP; and
- (6) Evaluate offers and recommend the awardee.

(U) (b) The contracting member of the buying team shall lead clarifications, discussions, and conduct debriefings.

(U) (c) The Contracting Team Chief or Deputy shall function as the Source Selection Authority (SSA) for the acquisition.

CCM Release Number: 2005-8  
Release Date: 8/31/2005

### **115.370-204 Source Selection Plan.**

(U) The buying team is responsible for developing evaluation criteria and drafting a source selection plan for the SSA's approval. The purpose of the source selection plan is to describe the "what," the "how," the "who," and the "when." The lower complexity of midrange procurements should promote development of abbreviated source selection plans. The ideal plan should ensure that the Agency's needs are met in a timely manner, at a reasonable cost, and be as concise as possible. The plan shall ensure the consistent and fair application of the evaluation factors in making the award decision. See CCG Part 115 for Source Selection Plan templates.

CCM Release Number: 2004-2  
Release Date: 9/15/2004

### **115.370-3 Request for Proposal (RFP).**

*No text.*

### **115.370-301 General.**

(U) Contracting officers shall use an RFP for all midrange procurements. The RFP includes Sections L (proposal preparation instructions) and M (evaluation criteria) as well as a model contract that includes Sections A through K. The buying team's decisions determine the extent of discussion required, the degree to which non-price factors influence the award, and the amount of competition available. The buying team tailors the evaluation and award criteria to the requirements. The procurement must conform to the procedures applicable to the evaluation and award criteria established in the RFP, unless changed by formal amendment to the RFP.

CCM Release Number: 2004-2  
Release Date: 9/15/2004

### **115.370-302 Preparing the RFP.**

(U) The RFP shall contain, at a minimum, the following:

- (a) Sections A through K of a model contract (including attachments such as the SOW). Offerors shall be notified to submit offers with a signed SF 33, SF 1442

or SF 1449, whichever is applicable and completed Representations and Certifications.

- (b) Section L, which shall establish proposal preparation requirements for the content and format of the offer. Normally, proposals will be limited to 30 pages.
- (c) Section M, explains the evaluation and award criteria.
- (d) A notification, when applicable, that facsimile offers are authorized.
- (e) Contracting officers shall use draft RFPs for competitive requirements equal to or greater than \$1,000,000 on an annual basis, pursuant to CCM 115.201(c).

CCM Release Number: 2005-8  
Release Date: 8/31/2005

#### **115.370-303 Protecting proposals.**

(U) When facsimile offers are authorized, a facsimile machine shall be placed in a secure location so offers received on it can be safeguarded. All offers submitted shall be recorded, sealed in an envelope marked with the RFP number and immediately provided to the contracting officer. The contracting officer should promptly make a good faith effort to inspect the document for completeness and legibility. If there are missing or illegible pages, the contracting officer should notify the offeror that it should resubmit the offer. The Government shall not assume responsibility for proper transmission.

CCM Release Number: 2004-2  
Release Date: 9/15/2004

#### **115.370-4 Source selection.**

*No text.*

#### **115.370-401 Competitive negotiated acquisition using the lowest price technically acceptable source selection process.**

(U) (a) Policy.

- (1) Award is based on the technically acceptable offer having the lowest price (if firm fixed price) or the lowest most probable cost (if cost reimbursable), although the RFP may permit discussing all aspects of the offer. This source selection 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 discussing the cost or price with offerors and is particularly appropriate when different approaches can be offered to satisfy the Government's need.
- (2) The RFP should state the Government's intention to award without discussion based on the initial offers submitted. FAR clause 52.215-1 shall be included in all RFPs for competitive negotiated procurements except for commercial item solicitations utilizing

the streamlined evaluation procedures of FAR 12.602.

(3) If the contracting officer documents the file pursuant to FAR 15.304(c)(3)(iv), past performance need not be an evaluation factor. If the contracting officer elects to consider past performance as an evaluation factor, it shall be evaluated in accordance with FAR 15.305; however, the comparative assessment required by FAR 15.305(a)(2)(i) is not required.

(4) Security proposals shall be rated on a pass/fail basis.

(U) (b) Procedures.

(1) The RFP shall request offerors to submit both a technical and a cost volume by the closing date specified.

(2) Evaluation. The buying team shall review each offer to determine if all required information has been provided and if the offer meets the minimal standard of technical acceptability established by the RFP. No further evaluation shall be made of any offer that is deemed unacceptable because it does not meet the technical requirements if the buying team believes the proposal cannot easily be improved to an acceptable level. Offerors may be contacted to clarify certain aspects of their offer only during the initial evaluation. Offerors that submitted unacceptable offers shall be notified of the rejection and the basis for it. Such offers are excluded from further consideration. Contracting officers shall document the reasons for an offer's rejection with succinct factual statements that explain why the offer is not acceptable.

(3) Determining the competitive range.

(i) If the source selection authority determines that discussions are necessary, the buying team shall rank the acceptable 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. Those offers remaining constitute the competitive range. Only in exceptional cases will this number be less than two offers. The contracting officer shall succinctly record the basis for the decision and shall notify each offeror not included in the competitive range.

(ii) The source selection authority may elect to award the contract without discussions and a competitive range determination if selection of an initial offer(s) will result in the lowest price/cost to the Government and discussions with other acceptable offerors are not anticipated to change the outcome of the initial evaluation regarding the evaluated price/cost. Discussions are not required if there are sufficient acceptable offers to ensure adequate price competition; and if the additional time, effort and delay required to make the other proposals acceptable (and thereby increase competition), would not be in the Government's interest.

(4) Discussions. If the contracting officer determines that discussions are required, discussions shall be conducted with each offeror in the competitive range. The discussions are intended to assist the buying team in fully understanding each offer and to assure that all offerors in the competitive range are competing equally on the basis intended. Contracting officers must be careful to ensure these discussions adhere to the guidelines set forth in FAR 15.306. After completing discussions, each offeror shall be given an opportunity to revise its offer to clarify or document



understandings reached during discussions. A common and reasonable cut-off date (normally less than 5 working days) will be established for submitting all revisions.

(5) Selection. The Contracting Team Chief or Deputy shall be the source selection authority. The source selection decision memorandum will not ordinarily exceed one page. It shall succinctly summarize the basis for selection and reference the informal worksheets used in the evaluation process to further supplement the decision. These informal worksheets shall be included in the contract file.

(6) Notification. Within three days of contract award, the contracting officer shall provide written notification to each offeror who was in the competitive range, but not selected for award in accordance with FAR 15.503(b)(1).

CCM Release Number: 2004-2  
Release Date: 9/15/2004

**115.370-402 Competitive negotiated acquisition using best value (tradeoff) source selection process.**

(U) (a) Policy.

- (1) Midrange acquisitions shall normally use Best Value Tradeoffs Source Selection method when it is desirable to base evaluation and award on a combination of price and non-price qualitative criteria.
- (2) The best value tradeoff approach in a midrange source selection predefines the evaluation factors that will serve as the discriminators among offers. It eliminates the use of area evaluation factors and highly structured scoring used in traditional best value tradeoff competitions.
- (3) The RFP should reserve the right to award without discussions based on the initial offers submitted. FAR 52.215-1 shall be included in all RFPs for competitive negotiated acquisitions using qualitative criteria except for commercial item solicitations.
- (4) In complex procurements, the traditional source selection method may be more appropriate than the midrange best value tradeoff approach when:
  - (i) Complex interrelationships of the acquisition must be evaluated;
  - (ii) A number of evaluators are required to address the disciplines that will be involved in the offers; or
  - (iii) The acquisition may impact broader mission requirements or future acquisitions.
- (5) See FAR 15.304 and 15.305(a)(2) regarding the evaluation of past performance.

(U) (b) Procedures.

- (1) Evaluation Criteria.
  - (i) The requiring organization shall provide, along with the Statement of Work

and/or specifications, a list of evaluation factors against which the offers will be judged. Although there is no limit to the number or the type of factors that requiring organizations may specify, the following standard factors should generally be used: corporate experience, technical expertise or technical approach, past performance, security, and cost/price. Factors may include sub-factors such as improved reliability, speed of service, demonstrated delivery performance, higher speeds, user-friendliness, personnel qualifications, solving operational problems, level of service provided on previous similar contracts, or any other characteristics that may be important to the Government in satisfying its needs.

- (ii) Security shall be rated on a pass/fail basis.
  - (iii) Past performance may be included within another evaluation factor or considered as a separate factor. Section M shall define the relative importance of past performance in relation to cost and the other factors when considered as a separate criterion.
  - (iv) Cost factors may be considered approximately equal to, significantly less important than, or significantly more important than all other qualitative factors combined.
- (2) Proposal Submission. The RFP may solicit both an interim and final proposal submission. The interim proposal submission shall be due approximately 15 days after release of the RFP and should consist of a corporate experience matrix, technical expertise matrix, proposed staff matrix (including education, security clearance, general, and specialized experience), brief descriptions of the technical approach and security qualifications, and past performance assessments. The final proposal submission shall be due 30 days after release of the RFP and shall include the signed model contract, cost/price proposal, any revisions to the staff and corporate experience matrices, resumes for key personnel, and any narratives required.
- (3) Evaluation. All interim proposals will be evaluated against the requirement and the evaluation factors. The buying team shall provide interim evaluation documentation, which will be compiled by the contracting officer as part of the record of source selection proceedings. The documentation shall consist of complete evaluation scoring sheets and supporting notes and shall address all qualitative evaluation factors. Upon receipt of final proposals, the evaluators shall review their earlier assessments against additional material submitted and adjust their evaluations accordingly. After the final evaluation, team members shall meet to discuss recommendations, resolve any remaining issues and prepare a summary report of the technical and cost evaluation results with the minimum amount of documentation. The summary report should recommend either selecting an offeror; or if discussions are required, identify those most highly rated offerors recommended for inclusion in the competitive range, pursuant to FAR 15.306(c)(1).
- (4) Determining the need for discussions and the competitive range.
- (i) The SSA shall establish the competitive range if the contracting officer will conduct discussions. The competitive range documentation shall succinctly describe how the evaluation characteristics in the RFP and cost/price considerations were evaluated. Generally, the competitive range will include those offers having the best price or lowest most probable cost; the offer having the highest qualitative merit; and those offers determined to have the

best combination of price and merit. The contracting officer shall exclude offers not in the competitive range from further evaluation.

(ii) The source selection official may elect to award in lieu of determining a competitive range, provided it can be clearly demonstrated that: (1) selecting an initial offer(s) will result in the best value for the Government, considering both price and non-price qualitative criteria; (2) discussions with other acceptable offerors are not anticipated to change the outcome of the initial evaluation relative to the best value offer(s); and (3) the solicitation contains a provision permitting award without discussions.

(5) **Discussions.** The contracting officer shall lead discussions with each offeror included in the competitive range. Care must be exercised to ensure these discussions adhere to the guidelines set forth in FAR 15.306. Discussions shall be conducted on an informal basis with each offeror. After completion of discussions, each offeror shall be provided an opportunity to revise its offer to clarify and document understandings reached during discussions. The contracting officer shall establish a common and reasonable cut-off date (normally within 5 working days) for submission of all revisions.

(6) **Selection.** The Contracting Team Chief or Deputy shall be the source selection authority. The best value tradeoffs source selection permits tradeoffs among cost or price and non-cost factors and allows the Government to accept other than the lowest priced proposal.

(7) **Source Selection Documentation.** The contracting officer records the rationale for selection of the successful offeror in a source selection memorandum that succinctly records the characteristics upon which the SSA made the selection. The statement need not and should not reveal details of the successful offer that are proprietary or business sensitive. The memorandum shall address the rationale used to evaluate cost and qualitative merit. Little or no additional analysis is required if the selected offeror possesses the highest merit and lowest price. When a tradeoff is made between qualitative factors and cost or price, specific rationale should be provided to the extent possible. The memorandum will not ordinarily exceed one page. When there is close competition, it would be prudent to expand on the rationale provided in the memorandum.

(8) **Notification.** Within three days of contract award, the contracting officer shall provide written notification to each offeror who was in the competitive range, but not selected for award in accordance with FAR 15.503(b)(1). Competitive negotiated acquisition using best value (tradeoff) source selection process.

CCM Release Number: 2004-2  
Release Date: 9/15/2004

### **115.370-5 Award.**

*No text.*

### **115.370-501 Representations and certifications.**

other evaluation factors combined).

(U) (c)(4) *Waivers.* The cognizant Group Chief may, in exceptional cases, waive (or partially waive) the requirement for submission of certified cost or pricing data. The authorization for a waiver and the reason for granting it shall be in a "Determination and Findings" format. See CCG, Part 115, "Determination and Findings Format - Authority to Waive Submission of Cost and Pricing Data."

CCM Release Number: 2004-2  
Release Date: 9/15/2004

#### **115.404-1 Proposal analysis techniques.**

(U) (a) Upon receipt of the audit report and the COTR's technical evaluation report (see CCG Part 115 for a sample Technical Evaluation Report), the contracting officer is responsible for developing a government pricing objective before negotiation. In addition, the contracting officer may seek the advice of other specialists. This advice may include cost and price analysis, historical cost or pricing data, independent government cost estimates, and economic analyses. Comments or recommendations from other specialists should be in writing.

(a)(5) Occasionally, differences of opinion will exist not only as to the reasonableness of cost projections, but also on the accounting techniques on which they are based. In addition, it may not be possible to negotiate a price that is in strict accord with all of the pricing specialist's opinions, or even with the government's pricing objective. Reasonable compromises are an essential part of the negotiation process. Therefore, contracting officers must consider audit reports or pricing recommendations by others as advisory. The contracting officer is responsible for exercising the requisite judgments and is solely responsible for the final pricing decision. However, when the contracting officer does not adopt the recommendations of auditors or other specialists, the contracting officer must document rationale in the record of the negotiation.

(U) (b) Price analysis. When contracting officers conduct price comparisons, they must make appropriate allowances for differences in such factors as date of prior acquisitions, specifications, quantities ordered, time for delivery, government-furnished materials, and current trends in production efficiency.

(U) (e)(1) A contracting officer may consider the recommendations of technical personnel as part of the cost analysis. The technical analysis report is an essential record supporting the procurement action and shall become a part of the official contract file.

CCM Release Number: 2005-7  
Release Date: 5/19/2005

#### **115.404-2 Information to support proposal analysis.**

(U) (c) When cost or pricing data are required, contracting officers shall request an audit report from FIN [ ] before negotiating any contract or modification resulting from a proposal in excess of \$1 million unless information available to the contracting officer is considered adequate to determine the reasonableness of the proposed cost or price. The contracting officer may request an audit for proposals under \$1 million. The contracting officer shall tailor all audit requests to the amount and complexity of the procurement. When contracting officers consider available data adequate for a reasonableness determination, they shall document the Business

(b)(3)

Review (BR) to reflect the basis of the determination. See 101.704 for Business Review content requirements.

CCM Release Number: 2005-8  
Release Date: 8/31/2005

### **115.404-3 Subcontract pricing considerations.**

(U) (a) The Agency's policies for cost-reimbursement subcontracts requires contracting officers to ensure that fees under such subcontracts do not exceed the fee limitation identified in FAR 15.404-4(c)(4).

(U) (b) When the contracting officer must award a definitive contract before determining final subcontract prices, the contracting officer may include clause 152.215-721, or one substantially the same in Section H.

(U) (c)(1) The prime contractor may submit a subcontractor's request for an exemption from the requirement to submit cost or pricing data pursuant to FAR 15.403-1.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

### **115.404-370 Subcontracting price revisions.**

(U) (a) When subcontracts have been awarded on a price redeterminable or ceiling priced basis, it may be necessary for the contracting officer to negotiate a final prime contract price, even though the contractor has not yet established final subcontract prices. In this situation, the contracting officer may require the contractor to advise the contractor officer in writing of the final subcontract price and negotiate a downward equitable adjustment to the contract price reflecting the subcontract price revision. The contracting officer may include clause 152.215-726, or one substantially the same in section H if this approach is desired.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

### **115.404-4 Profit.**

(U) (b)(1)(i) Contracting officers shall follow the Agency's Structured Fee Calculation Approach when developing a pre-negotiation profit or fee objective. This applies to all negotiated contract actions that require cost analysis in accordance with FAR 15.403, Obtaining cost or pricing data.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

### **115.404-470 Agency Structured Fee Calculation Approach.**

(U) (a) Provides a vehicle for performing the analysis necessary to develop a profit objective by giving due consideration to all appropriate cost elements and factors influencing profit/fee determinations.

(U) (b) Provides a format for contract negotiation documentation. For the Business Review's

documentation requirements for profit, see CCG, Part 101, "Business Review - Required Format & Content".

(U) (c) Serves as a basis for determining an appropriate profit/fee objective. It does not mandate a specific fee or profit objective in terms of either dollars or percentages. Contracting officers have the latitude to negotiate above or below the Agency Structured Fee Calculation Approach computed amounts, consistent with the circumstances surrounding the particular negotiation.

(U) (d) Provides an automated spreadsheet which aids in calculating a profit/fee objective and is available electronically in the CCG. For information on how to compute the profit/fee objectives using the automated form, see CCG, Part 115, "The Agency's Profit Policy Instruction Guide & Spreadsheet".

CCM Release Number: 2004-2  
Release Date: 9/15/2004

**115.406 Documentation.**

*No text.*

**115.406-170 Prenegotiation objectives.**

(U) (a) Requirements for briefing, documentation, and approval of prenegotiation objectives shall be at the discretion of the Contracting Team Chief. Team Chiefs shall consider both the amount and complexity of the requirement, and the experience level of the contracting officer when establishing such requirements.

(U) (b) While the Team Chief establishes pre-negotiation briefing requirements, the following information in Table 15-4 should be addressed, as appropriate.

**Table 15-4 Prenegotiation Briefing Content**

General	- Top level summary of the contract, including identification of contractor, type of contract, value, period of performance and obligated funds.
	- Summary of acquisition events to date.
Technical	- General summary of the technical requirements of the action.
	- Technical analysis comments and the proposed treatment of such advice/comments.
Cost	- Cost/price spreadsheet showing the elements of the offeror's proposal, audit recommendations, and the negotiator's pricing objectives.
	- Discussion of technical and/or cost differences between proposals and the Government's objective.
	- Discussion of how previous contract actions impact the pricing objectives of the current contract action.
	- Extent of subcontracting and justification for subcontract price(s) provided by the prime contractor.
	- Discussion of whether the CO will base negotiations on actual costs.
	- Discussion of how the CO established the profit objective, including a copy of the weighted guideline analysis, and discussion of the award fee structure, if applicable.

	- Discussion of incentive arrangements, if applicable (e.g. share ratios, ceiling price, etc.)
	- Summary statement addressing audit or specialist recommendations.
Other Considerations	- Unique or peculiar features of the contract (e.g. cost sharing, options, etc.)
	- Proposed special provisions and rationale for use.
	- Any specific approvals, deviations, or delegations required.

CCM Release Number: 2004-1  
 Release Date: 9/14/2004

**115.406-3 Documenting the negotiation.**

(U) (a) The Agency calls its price negotiation memorandum a "Business Review" (BR). (See CCG, Part 101, "Business Reviews - Required Format and Content" for specific documentation and format requirements).

CCM Release Number: 2004-2  
 Release Date: 9/15/2004

**115.408-70 Solicitation provisions and contract clauses.**

(U) Clause 152.215-727, Pricing Adjustment, shall be included in all solicitations and contracts which include FAR clauses: 52.215-11, Price Reduction for Defective Cost or Pricing Data - Modifications; 52.215-12, Subcontractor Cost or Pricing Data; or 52.215-13, Subcontractor Cost or Pricing Data - Modifications.

CCM Release Number: 2004-1  
 Release Date: 9/14/2004

**115.5 PREAWARD, AWARD, AND POSTAWARD NOTIFICATIONS, PROTESTS, AND MISTAKES**

**115.505 Preaward debriefing of offerors.**

(U) (d) The contracting officer should chair any debriefing held, with the support and active participation of the technical personnel familiar with the rationale for the source selection decision. The written narrative evaluation report prepared during the technical evaluation shall be the primary source of information. The contracting officer should coordinate debriefing materials with CLD/OGC. See CCG Part 115 for a debriefing template.

CCM Release Number: 2004-2  
 Release Date: 9/15/2004

**115.506 Postaward debriefing of offerors.**

(U) (c) The contracting officer should chair any debriefing held, with the support and active participation of the technical personnel familiar with the rationale for the selection decision. The written narrative evaluation report prepared during the technical evaluation shall be the primary source of information. The contracting officer should coordinate debriefing materials with CLD/OGC. See CCG Part 115 for a debriefing template.

CCM Release Number: 2004-2  
Release Date: 9/15/2004

## **115.6 UNSOLICITED PROPOSALS**

### **115.606 Agency procedures.**

(U) (a)(1) When an unsolicited proposal is received, it must be promptly acknowledged by the cognizant contracting team. The acknowledgment shall advise the offeror that the Agency is considering its proposal. The contracting team shall then place the cover sheet required by FAR 15.609, *Unsolicited Proposal – Use of Data Limited*, on the proposal and forward the proposal to the appropriate technical component for evaluation.

(U) (2) Contracting officers shall ensure that FAR 15.608, Prohibitions, is closely followed.

(U) (3) When the technical component completes its evaluation, it shall notify the contracting team of its conclusions and recommendations. If the evaluators conclude that the technical office is not interested, the technical office will return the proposal to the contracting team and, if appropriate, recommend other technical offices that might be interested. If it is determined that there is no Agency interest, the contracting team shall return the proposal to the contractor, or destroy it at the contractor's discretion.

(U) (4) A favorable comprehensive evaluation of an unsolicited proposal does not, in itself, justify awarding a contract without following the Agency's competition procedures. The contracting officer may commence negotiations on a sole source basis only when the unsolicited proposal is favorably evaluated, a Justification for Other than Full and Open Competition approval has been obtained, and the technical office sponsoring the contract has furnished the necessary funds.

CCM Release Number: 2004-1  
Release Date: 9/14/2004

## **115.70 ALPHA CONTRACTING**

### **115.7000 Definition.**

(U) Alpha Contracting is a technique that uses a team approach to prepare, evaluate, and award efforts in substantially less time than the traditional approach. Alpha Contracting takes the contracting process and converts it from a consecutive (and often iterative) process into a concurrent process in which the government and contractor teams work side by side. From solicitation development, through proposal preparation, to evaluation, negotiation, and award, Alpha Contracting relies on a team approach to concurrently develop a scope of work, price that scope, and prepare to execute that scope.



CGM Release Number: 2005-7  
Release Date: 5/19/2005

**115.7001 General.**

(U) (a) Alpha Contracting is used in a sole source environment targeted to those acquisitions where there is a high payoff. Alpha Contracting is best suited for technically complex/high dollar efforts, R&D efforts, or wherever the contracting officer determines it to be beneficial. Alpha Contracting is a proven approach to reducing administrative lead-time, reducing costs, and improving both the negotiated agreement and probability of success of a resulting effort.

(U) (b) Additional information on Alpha Contracting is found in the CCG Part 115, Alpha Contracting Briefing.

CGM Release Number: 2005-7  
Release Date: 5/19/2005