

Procurement & Property Division Policy Memorandum

Subject: Use of Best Value Negotiation Procedures in Lieu of Sealed Bidding Procedures		Number: 14-02
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Background

This memorandum provides some guidelines for your use when developing "best value" negotiated procurements for requirements which have, in the past, been solicited using Sealed Bidding procedures.

Definition

Best Value - A source selection process which is used to determine which proposal offers the best trade-off between price/cost and performance capabilities where quality is considered an integral performance factor. In essence, it is getting the best deal for our money, all factors considered.

Policy Guidance

For procurements valued in excess of \$100,000 which in the past have been conducted under the sealed bidding procedures included in Part 14 of the Federal Acquisition Regulation (FAR), it may be appropriate to conduct a "best value" negotiated procurement to ensure receipt of quality supplies/services.

At a minimum, in a "best value" procurement, the solicitation must clearly state the significant evaluation factors, such as the following:

- (1) Cost or price;

- (2) cost or price related factors, such as cost realism;
- (3) past performance and other non-cost or non-price related factors (in some cases, this may not be more than the capability of the item offered to meet the requiring activities needs); and
- (4) any significant subfactors that will be considered in making the selection and their relative importance.

Further, the solicitation must state whether all evaluation factors other than cost or price, when combined are:

- (1) Significantly more important than cost or price;
- (2) approximately equal to cost or price; or
- (3) significantly less important than cost or price.

For smaller, less complex negotiated procurements, it may be appropriate to include only one "other than cost or price" evaluation factor - past performance. The "Guide to Best Practices for Past Performance, Interim Edition, May 1995," published by the Office of Federal Procurement Policy, which has been provided to REE contracting offices, contains information that is helpful in using past performance as an evaluation factor. **Past performance information is an indicator of an offeror's ability to perform the contract.** The comparative assessment of past performance information is separate from the responsibility determination required under FAR 9.103. The following should be considered at the time the information is evaluated:

- (1) Number and severity of an offeror's past performance problems;
- (2) the effectiveness of corrective actions taken;
- (3) the offeror's overall work record; and
- (4) the age and relevance of past performance information.

Where past performance is to be evaluated, offerors are to be given the opportunity to identify Federal, state and local Government, and private contracts on which they have performed, that were similar in nature to the contract being evaluated, so that the Government may verify the offerors' past performance on these contracts. Past performance information may also be obtained from sources known to the Government. The source and type of past performance information should be tailored to the circumstances of each acquisition. In accordance with FAR 15.608(a)(2)(iii), firms lacking relevant past performance history shall receive a neutral evaluation for past performance. This might be accomplished by giving a new firm the average score of the other competing offerors and evaluating the proposal in accordance with other stated evaluation criteria.

For less complex procurements, a simple technical evaluation factor such as the capability of the item offered to meet the requiring activity's needs, may be appropriate. For evaluation of this factor, product literature, product samples, and information on technical features may be requested.

For commercial items procured under FAR part 12 procedures, the provisions at FAR 52.212-1, Instructions to Offeror -Commercial Items, and FAR S2.212-2, Evaluation -Commercial Items, or a similar provision containing all evaluation factors required by FAR subpart 15.6 (as an addendum) are to be included, however, the same "best value" principles apply.

See enclosure 1 for Sample Technical Evaluation Factors and a sample "best value" award provision.

Action Required by REE
Contracting Officers

Review all requirements to determine if using "best value" procedures would increase the likelihood of receiving a quality product at a reasonable price, and if using such procedures would be feasible. Where appropriate, process procurements using the "best value" guidelines outlined herein.

Sample Technical Evaluation Factors

M.2 EVALUATION CRITERIA FOR TECHNICAL PROPOSALS

Technical proposals will be evaluated based on technical merits in accordance with the following specific factors:

- Past Performance
- Technical Approach
- Management and Staffing

The technical evaluation factors are in descending order of importance, with "past performance" being approximately one and one half times as important as "technical approach" and "technical approach" being approximately two and one half times as important as "management and staffing".

Note: When significant subfactors are included, the relative importance of such subfactors must be stated. As an example, for the "management and staffing" factor, it would be specified that "subfactors are listed in descending order of importance." Subfactors for this factor might be --

- Project Organization
- Staffing Chart w/Assignments
- Identified Key Personnel (Resumes required) - Any required/desired knowledge, skills and experience should be specified
- Management of Subcontractors

Sample "Best Value" Award Provision

M.3. CONTRACT AWARD

Award will be made to the offeror offering the "best value" to the Government, price and the identified "technical factors" considered. All of the technical factors combined are significantly more important than price, however, in the event that offerors are considered essentially equal in terms of technical competence price may become the determining factor in contract selection.

Note: Section L must specify the information that is required to perform the evaluation specified in section M. If the proper information has not been requested in section L, the information cannot be evaluated under section M criteria. As noted in the memorandum, the provisions at FAR 52.212-1 and 52.212-2 apply to the acquisition of commercial items under FAR part 12 procedures.