

of issues in an alternative dispute resolution process.

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8. Section 6.302-5 is amended by revising paragraph (c)(1) and adding paragraph (c)(3) to read as follows:

6.302-5 Authorized or required by statute.

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(c) *Limitations.* (1) This authority shall not be used to support new awards to specified non-Federal Government entities unless a provision of law specifically refers to 10 U.S.C. 2304(j) for armed services acquisitions or section 303(h) of the Federal Property and Administrative Services Act of 1949 for civilian agency acquisitions and requires an agency to award a new contract to a named non-Federal Government entity and specifically states that award to this entity shall be made in contravention of the merit-based selection procedures in subsection 7203(b) of the Federal Acquisition Streamlining Act of 1994 (10 U.S.C. 2304(j) and section 303(h) of the Federal Property and Administrative Services Act of 1949). However, this limitation does not apply—

(i) When the work provided for in the contract is a continuation of the work performed by the specified entity under a preceding contract; or—

(ii) To any contract requiring the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an executive agency and to report on those matters to the Congress or any agency of the Federal Government.

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(3) The authority in paragraph (a)(2)(ii) of this subsection may be used only for purchases of brand-name commercial items for resale through commissaries or other similar facilities. Ordinarily, these purchases will involve articles desired or preferred by customers of the selling activities (but see 6.301(d)).

9. Section 6.304 is amended by revising paragraph (a)(2) to read as follows:

6.304 Approval of the justification.

(a) * * * _

(2) For a proposed contract over \$100,000 but not exceeding \$1,000,000, by the competition advocate for the procuring activity designated pursuant to 6.501 or an official described in paragraphs (a)(3) and (a)(4) of this section. This authority is not delegable.

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PART 14—SEALED BIDDING

10. Section 14.407-1 is amended by revising paragraphs (a)(1) and (d)(2) to read as follows:

14.407-1 General.

(a) * * * (1) by written or electronic notice, * * *

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(d) * * *

(2) use of the Award portion of SF 33, SF 26, or SF 1447, does not preclude the additional use of informal documents, including telegrams or electronic transmissions, as notices of awards.

11. Section 14.408-1 is revised to read as follows:

14.408-1 Award of unclassified contracts.

(a)(1) The contracting officer shall as a minimum (subject to any restrictions in 48 CFR part 9, subpart 9.4)—

(i) Notify each unsuccessful bidder in writing or electronically within three days after contract award, that its bid was not accepted;

(ii) Extend appreciation for the interest the unsuccessful bidder has shown in submitting a bid; and

(iii) When Award is made to other than a low bidder, state the reason for rejection in the notice to each of the unsuccessful low bidders.

(2) For acquisitions subject to the Trade Agreements Act or the North American Free Trade Agreement (NAFTA) Implementation Act (see 25.405(e)), agencies shall include in notices given unsuccessful offerors from designated or NAFTA countries—

(i) The dollar amount of the successful offer; and

(ii) The name and address of the successful offeror.

(b) Information included in paragraph (a)(2) of this subsection shall be provided to any unsuccessful bidder upon request except when multiple awards have been made and furnishing information on the successful bids would require so much work as to interfere with normal operations of the contracting office. In such circumstances, only information concerning location of the abstract of offers need be given.

(c) When a request is received concerning an unclassified invitation from an inquirer who is neither a bidder nor a representative of a bidder, the contracting officer should make every effort to furnish the names of successful bidders and, if requested, the prices at which awards were made. However, when such requests require so much work as to interfere with the normal operations of the contracting office, the inquirer will be advised where a copy of the abstract of offers may be seen.

(d) Requests for records shall be governed by agency regulations implementing 48 CFR part 24, subpart 24.2.

PART 15—CONTRACTING BY NEGOTIATION

12. Section 15.407 is amended by revising paragraph (d)(4) to read as follows:

15.407 Solicitation provisions.

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(d) * * *

(4) Insert in RFP's the provision at 52.215-16, Contract Award.

(i) If the RFP is for construction, the contracting officer shall use the provision with its Alternate I or the provision with its Alternate I or the provision with its Alternate I and Alternate II.

(ii) If the contracting officer intends to evaluate offers and make award without discussions, use the basic provision with its Alternate II.

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13. Section 15.605 is amended by revising the heading, and paragraphs (a), (b), and (e) to read as follows:

15.605 Evaluation factors and subfactors.

(a) The factors and subfactors that will be considered in evaluating proposals shall be tailored to each acquisition and include only those factors that will have an impact on the source selection decision.

(b) The evaluation factors and subfactors that apply to an acquisition and their relative importance are within the broad discretion of agency acquisition officials. However, price or cost to the Government shall be included as an evaluation factor in every source selection. Quality also shall be addressed in every source selection. In evaluation factors, quality may be expressed in terms of technical capability, management capability, personnel qualifications, prior experience, past performance, and schedule compliance. Any other relevant factors and subfactors, such as cost realism, may also be included.

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(e) The solicitation shall clearly state the significant evaluation factors and significant subfactors, including cost or price, cost or price-related factors and subfactors, and non-cost or non-price-related factors and subfactors, that will be considered in making the source selection and their relative importance (see 15.406-5(c)). The solicitation shall state whether all evaluation factors other than cost or price, when combined, are (1) significantly more