Best-Value Source Selection/Commercial-Like Practice Guideline - 3.1.G (09/01/04)

Last Update: (09/01/04) RShibata:kma - 3.1.G.0

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This guideline was extensively revised to address administrative changes throughout the document.

Definition

Best-Value Procurement is the expected outcome of any acquisition that ensures the customer's

needs are met in the most effective, economical, and timely manner.

Background - 3.1.G.1

Best-value source selection is used to determine which proposal offers the best tradeoff between price/cost and performance capabilities and which has the highest probability of success, where quality is considered an integral performance factor. Factors used for evaluation may include factors such as performance capability, technical elements, past performance, total life cycle costs, experience, and financial capability.

Best-value source selection is based on the premise that, if all proposals are approximately equal in terms of qualitative merit, award will be made to the responsible Offeror with the lowest evaluated price or the most probable/realistic cost. However, Sandia may award to a responsible Offeror whose proposal offers a higher qualitative merit and is judged to have higher value than the price/cost differential. Conversely, Sandia may award to the responsible Offeror whose proposal has lower qualitative merit if the price/cost differential warrants doing so.

Communications With Offerors - 3.1.G.2

After receipt of proposals, it may be necessary, or desirable, to communicate with any or all of the Offeror(s) during the source selection process. The purpose of the communications is to ensure that there is a mutual understanding between Sandia and the Offeror on all aspects of the procurement. The following apply to communications with Offerors:

- The Sandia Contracting Representative (SCR), at their discretion may communicate, orally or in writing, with any or all of the Offerors to obtain information to evaluate and/or facilitate Sandia's decision, or to negotiate the best-value for Sandia. The SCR may choose to limit communications to those Offerors whose proposals have the highest probability of success and provide the best-value to Sandia.

- Communications with one offer Offeror do not necessitate communications with other Offerors since communications will be Offeror specific.

- The SCR should not communicate to any Offeror, or lead an Offeror to believe, that they are the winning Contractor until a final decision has been made and appropriate approvals have been received.

- Contractors should never begin performing work in anticipation of receiving authorization from the SCR to begin. However, if the SCR suspects that a Contractor may be engaged in this type of activity, it becomes the duty of the SCR to provide immediate written feedback to the Contractor that such actions are not authorized, and that Sandia is not obligated to reimburse the Contractor for any costs incurred as a result of the

unauthorized actions

- Any communications conducted should not afford any Offeror an unfair advantage.
- During communications, the SCRs may permit the Offeror(s) to change their proposal to allow Sandia to achieve the best-value procurement. The SCR should consider the impact of changes on Offeror(s) who:
    - are still being considered for award, and
    - were initially eliminated from consideration.
- The SCR may advise Offeror(s) of perceived errors, omissions, deficiencies, or other concerns.
- Sandia may eliminate any Offeror from further consideration at any point during the proposal evaluation phase. The SCR should document the file as to why the Offeror is being excluded from consideration.

Note: Site visits are a type of communication; therefore, the same rules that apply to communications apply to site visits.

Commercial Competition Techniques - 3.1.G.3

The SCR may utilize commercial competition techniques such as the following in making a best-value source selection:

- indicating to an Offeror the price which must be met to obtain further consideration,
- informing the Offeror that his price is not low in relation to other Offeror's prices,
- technical leveling techniques such as helping an Offeror bring its proposal to the level of other proposals through communications by pointing out weaknesses (e.g., Offeror A is told of his weaknesses related to the Statement of Work (SOW) to bring him up to the same level as Offeror B and C), and
- using other Offerors' proposals as a source of acquiring information about commercially available capabilities and sharing that information with other Offerors (e.g., asking Offeror A, "Does your widget have Option X that is available on Offeror B's widget"?--when Option X is commercially available).

The SCR is cautioned not to disclose company names, trade secrets or financial/technical information, which is identified as proprietary nor to use techniques which may be considered technical transfusion. Technical transfusion occurs when Sandia discloses technical information pertaining to one proposal that results in the improvement of a competing proposal, unless the

improvement is commercially available and/or publicly known. Any information disclosed by the Offeror or other known factual information from other sources may be considered in the evaluation of the Offeror's proposal.

Proposal Evaluation - 3.1.G.4

Evaluation Methods - 3.1.G.4.a

No one evaluation method is better than another, and any method may be utilized which obtains the best-value for Sandia. Some evaluation methods, which may be considered in making a best-value source selection are: Narrative and Benchmark. After receipt of proposals, the SCR, with input from the Source Selection Team, should be able to determine best-value by analyzing price and nonprice factors listed in the solicitation and making tradeoffs. The SCR may share the cost/price information provided in the Offeror(s) proposal(s) with the Requester for evaluation purposes.

Performing Cost/Technical Tradeoffs - 3.1.G.4.b

A cost/technical and other factors tradeoff analysis, utilizing any evaluation method, may be conducted as follows:

- Identify the significant differences between the proposals by comparing their strengths, weaknesses, and/or risks. Look for areas that are important to Sandia's mission or program objectives or that will have an impact (positive or negative) on operations (e.g., operation effectiveness, productivity, delivery, etc.).
- Determine the overall best-value. If the best-value involves award to other than the lowest price, you must be able to develop a rationale that will support the price premium to be paid.

Past Performance Information - 3.1.G.4.c

Past performance information is used to evaluate risk based on factual information about the Offeror. Past performance may be assessed in the:

- initial evaluation to establish an initial ranking or rating of an Offeror without comparing it to other Offerors, and/or
- final evaluation by comparing Offerors’ past performance against each other.

In evaluating past performance, it may not be sufficient to consider only the sources provided by the Offeror. The SCR may want to use other resources, for example, information from customers who are known to have done business with the Offeror even if they are not listed as references, Sandia's own records, industry publications, etc.

It is often difficult to obtain past performance information from references. The SCR may have

difficulty getting responses to long, convoluted questions. Ask more general questions such as the following:

- If you had a choice, would you contract with this Contractor again? If yes, does the Contractor have any particular performance strong points? If no, why not?
- Did the end product or services meet contractual requirements, particularly with respect to the quality provided?
- Did the Contractor complete the effort within the budget? If not, was the cost growth due to Contractor inefficiency or lack of expertise?
- Did the Contractor encounter any problems during the contract, if so how were they corrected?
- Remember to ask for identification of Contractors' strong points too.
- Were any of the deficiencies within the Contractor's control? What corrective actions were taken to correct the problem?

Obtaining a timely response to questions may be difficult. The SCR should obtain the information in the best manner practicable and document the file appropriately.

An allegation of poor past performance should be examined closely. The SCR should determine the accuracy of the allegation and if the reported poor past performance is likely to affect performance under the current contract. Depending on the situation, the SCR will have to decide if it is appropriate to go back to the Offeror and give them the opportunity to comment on adverse reports concerning their past performance. The burden is on the Offeror to show that past performance problems have been corrected.

The SCR may treat past performance problems identified during the initial evaluation process as issues, which could be addressed during communications.

Consider such things as:

- number and severity of past problems,
- effectiveness of corrective action,
- problem(s) within the Offeror's control,
- Offeror's overall work record, and/or,
- relevance of past performance information.

Before you find an Offeror's past performance deficient you must determine if the deficiency was beyond the Offeror's control (excusable?). If deficient past performance was the fault of the Offeror, you must also consider whether the Offeror has taken effective corrective action. One of the more difficult areas to determine is the extent to which the contracting entity contributed to the deficient performance. The extent to which the Offeror's deficient past performance could

affect its performance of the prospective contract must also be determined. If problems have been corrected or are unlikely to recur, the past problems may not be germane to the current contract. If problems have not been corrected, it is assumed that they still exist. Poor past performance should only be considered with respect to the risk that such problems will reoccur and adversely affect performance on the proposed contract. All past performance deficiencies should be examined for any patterns.

The age and relevancy of the past performance information should be considered. The information should generally not be more than three (3) years old.

Oral Presentations - 3.1.G.4.d

The oral presentation should provide sufficient information to give Sandia an understanding of the Offeror's proposal. After contract award, the Sandia technical organization and the Offeror may develop detailed work packages and the schedule as full partners in a team effort. The results of this effort should be formalized with an Offeror work breakdown structure, management plan, and master schedule. The following are some general guidelines to be utilized with oral presentations.

Scheduling - Oral presentations should be scheduled as soon as practicable after the due date of the solicitation and sufficient time should be allocated depending on the complexity of the procurement.

Time Limit - There should be a firm time limit for the oral presentation. Firm time limits for the presentation must be established in the solicitation (see Guideline 2.1 – Solicitation Document). The Evaluation Team should ensure that the Offeror adheres to the time limits specified in the solicitation. The length of time spent on individual topics of the presentation would in most instances be left to the Offeror's discretion.

Recording the Presentation - There is no requirement that a record of the oral presentation must be maintained. However, depending on the complexity, it is recommended that for documentation purposes, the presentation be videotaped since a portion of the content of the presentation may constitute part of the "offer," and it may be advantageous to preserve the presentation for the record. Such recording also permits evaluators to revisit the presentation to verify information. (You should indicate to the Offeror if any part of the oral presentation will appear in the resultant contract.) If the presentation of one Offeror is to be recorded, then the presentations of all of the other Offerors should be similarly recorded. Evaluators are free to rely on information provided by the Offeror during the oral presentation and their own notes as well as factual information known about the Offeror.

Communications During the Oral Presentation - Open communication (meaningful give-and-take dialog between Sandia and the Offeror) is one of the primary benefits to using oral presentations.

Question & Answer (Q&A) Session - A question and answer session may be utilized immediately following the oral presentation. This will enable the evaluators to better assess the Offeror's knowledge, capabilities, understanding of the work to be performed as well as technical and managerial capabilities. The Q&A session should include free and open communications

with each Offeror.

Scoring - If practicable, scoring of each presentation should be done immediately after it is completed. It is important that the SCR inform the Evaluation Team of strict confidentiality during the oral presentations.

Revision of Offeror's Proposals - At Sandia's option, the Offerors may be allowed a set amount of time to update any cost information, or provide any additional information as requested by the Evaluation Team, after the oral presentations and Q&A session. It is at Sandia's discretion to decide which Offerors will be requested to submit updated information. The SCR should determine whether a common due date will be required, or if each Offeror will be allotted an equal amount of time to submit updated information. If an equal amount of time will be allotted, then the SCR must decide how many days will be allowed to provide additional information. (Recommended time is one week from the date of the Offeror's presentation.)

Meeting Specification/Low Price Evaluation - 3.1.G.4.e

When the basis for award is meeting specifications and low price, the SCR shall conduct an evaluation of all offers, assessing those two factors. The line organization may be requested to review the offers to ensure all specifications can be met. Award shall be made to the responsible Offeror that offers the lowest price to Sandia; however, in certain instances the SCR may determine that it is in Sandia's best interest to make an award based on best-value.

Note: When award is made on the basis of meeting specifications and low price, the evaluation of all offers shall be documented in the Procurement file on the Abstract for Purchase Form SF 6430-DD, or an equivalent, providing all pertinent data is included in the documentation.

Evaluating Options - 3.1.G.4.f

A proposed contract with options may result in an unbalanced proposal or an offer where prices for the base period are significantly higher than the option year prices or vice versa. When initially developing and subsequently evaluating a requirement with options, the SCR should consider:

- Is the offer mathematically unbalanced? What is the mathematical magnitude of difference between the base term and the option years?
- What factors account for the price differential? Are there installation or start-up costs?
- Is Sandia expected to exercise the options and is there reasonable expectation that funds will be available? Construction bid options have special provisions (see Guideline 5.5 – Construction Contracting).
- Which offer would ultimately result in the best-value to Sandia and at which point in time is a cost advantage realized?
- Does the proposed procurement involve a considerable length of time to justify evaluating the time value of money in order to assess the actual lowest cost to Sandia?

Special Situations in the Evaluation of Proposals - 3.1.G.5

Late Proposals - 3.1.G.5.a

Late proposals may be considered for award at the discretion of the SCR, only if received prior to contract award.

Valid reasons for accepting late proposals include:

- the SCR determines the proposal was mailed in time to reach Sandia by the due date, and such consideration will not result in unfair treatment to other Offerors,
- it offers significant cost or technical advantage to Sandia or the government, and/or
- it is the only proposal received.

Nonresponsiveness of the Contractors Proposal - 3.1.G.5.b

A proposal may be considered nonresponsive if it fails to meet the mandatory technical requirements, and significant exceptions are taken to legal and administrative requirements of the solicitation. SCR's should treat noncompliance with solicitation instructions as an exception to the administrative requirements. The SCR should consult with their manager if they believe that a proposal is nonresponsive. The SCR makes the final determination if a proposal is responsive or nonresponsive. A nonresponsive proposal is eliminated from consideration for award.

Mistakes - 3.1.G.5.c

Mistakes may be made due to clerical errors (most common), errors in business judgment, and errors due to the misreading of drawings and specifications. The SCR should consult with their manager if they suspect that a mistake has been made.

Prenegotiation Planning - 3.1.G.6

Planning is the cornerstone of effective negotiation. As a best business practice, depending on the requirements, it is recommended that the SCR engage in prenegotiation planning to ensure that all relevant issues are adequately defined. When preparing a prenegotiation plan, SCRs may use the format and content prescribed on Pre-negotiation Plan Form SF 6430-JDA.

Negotiations - 3.1.G.7

Negotiation is a process that includes the receipt of proposals from Offerors, permits bargaining, and usually affords Offerors an opportunity to revise their offers before award of a contract. Bargaining is done in the sense of discussion, persuasion, alteration of initial assumptions and positions, and give-and-take. Negotiations usually include three stages:

- fact-finding,
- preliminary negotiations, and
- bargaining/negotiation.

These stages may include some of the items listed below.

Fact Finding Stage

- Review and discuss Offeror's proposal and results of analysis from support team.
- Check inconsistencies between SCR and seller's cost information.
- Consider the seller's basis of estimates for the various elements of the proposal.
- Obtain clarification from seller concerning questions raised with respect to its proposal.
- Identify general negotiation objectives.
- Attempt to determine the range of negotiation position.

Preliminary Negotiation Stage

- Examine additional data or repricing received from seller.
- Narrow the range of objectives.
- Determine if both parties are ready to negotiate.

Bargaining/Negotiation

- During this stage, negotiators are trying to obtain the most mutually favorable terms.
- Involves discussion, hard bargaining, compromise, and reaching final agreement.

Negotiation Issues

Issues which might be negotiated include, but are not limited to:

- contract type,

- payment terms,
- Terms and Conditions (Ts&Cs),
- technical requirements,
- scope of effort,
- delivery and schedules,
- contract price,
- incentives, and
- cost elements and fee.

The SCR may choose to engage in negotiations with any or all of the Offerors who have submitted a proposal. The SCR may request the assistance of appropriate personnel, including technical line organizations, Auditing, etc., in preparing for negotiations.

Postaward Procedures - 3.1.G.8

Postaward Feedback - 3.1.G.8.a

After contract award, the SCR (assisted by appropriate technical personnel) may provide feedback to an unsuccessful Offeror if so requested. Offerors may be given the basis for the selection decision and an evaluation of the strengths and weaknesses of their proposal correlated to the evaluation factors. A point-by-point comparison of the Offeror's proposals with other proposals must not be made. The Offeror may only be verbally advised of the strengths and weaknesses of their offer. When feedback will be provided, it is strongly recommended that the SCR and Requester prepare in advance by participating in a “dry run” to ensure that both parties are in accord with what shall or shall not be discussed. The SCR may choose to inform the Offeror as to whether they ranked in the top, middle or bottom range, when compared to other Offerors.

The SCR must handle proprietary information belonging to suppliers with due care and proper consideration of ethical and legal ramifications and regulations. Others at Sandia (e.g., Requesters, auditors, etc.) may be unaware of the possible consequences of the misuse of such information; therefore, the person receiving the information should be advised that it is proprietary and that it should be treated as such. Proprietary information requires protection of the company name, composition of process of manufacture, trade secrets, or rights to unique or exclusive information, which has marketable value and is upheld by patent, copyright or nondisclosure agreement. If SCRs are unclear regarding disclosure requirements they should request assistance from Sandia's Legal organization.

Some examples of information which may be considered proprietary and should not be disclosed are:

- individual unit pricing,
- cost or price breakdown,
- formulas and/or process information,
- design information (drawings, blueprints, etc.),
- company plans, goals, strategies, etc.,
- profit information,
- asset information,
- wage and salary scales,
- personal information about employees or trustees,
- supply sources or supplier information,
- customer lists or customer information, and
- computer software programs.

The SCR shall provide this limited information orally, and no written documentation shall be provided to the Offeror nor required for the Procurement file.

Note: Unauthorized disclosure of certain business information submitted in confidence may constitute a criminal offense (18 U.S.C. 1905).

Award Notification - 3.1.G.8.b

Notification of contract award is generally made by mailing or delivering a signed contract to the successful Offeror for acceptance. The SCR should not communicate to any Offeror, or lead an Offeror to believe, that they are the winning Contractor until a final decision has been made and appropriate approvals have been received.

Regret Letters - 3.1.G.8.c

Generally, notification to all unsuccessful Offerors should be made within thirty (30) days after contract award for awards exceeding $100K. However, when a procurement will not be definitized for an extended period of time due to long approval cycles or other circumstances, the SCR, after consultation with Procurement management, may elect to notify unsuccessful bidders at an earlier point in time. The SCR should consider the impact on the Offeror caused by a lengthy delay in notification and the possible impacts of notification on the yet to be awarded procurement.

Information released, after contract award, shall be limited to:

- contract dollar amount, and
- name of the winning Contractor.

A sample letter of notification is located in "Guideline Documents."

Documentation - 3.1.G.9

The selection process documentation should make a convincing argument for the selection of one Offeror over others on the basis of best-value tradeoff analysis. At a minimum the documentation should address the following:

- why an Offeror was not considered to have the "highest probability of success" and therefore was eliminated from further consideration for award;
- rationale for any substantial changes to Sandia requirements;
- rationale for allowing Offerors to change their proposals;
- the evaluation method used;
- rationale for any changes to the evaluation factors (update source selection plan if used);
- negotiations;
- cost/technical tradeoff(s);
- price/cost reasonableness; and
- how the selected Offeror offers the best-value to Sandia.

Note: All documentation involving source selection is considered proprietary to Sandia and cannot be released.

Send feedback on ideas and information on this page to the Process Expert, Randy Shibata.

Randy Shibata

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