

Agency Guidance on Unsolicited Proposals

Preface: The following is provided to meet Agency requirements in accordance with Federal Acquisition Regulation (FAR) 15.604(a) with regards to providing information to potential offerors of Unsolicited Proposals.

Disclaimer: If differences exist between this document, the DISA Acquisition Regulation Supplement (DARS), Defense Federal Acquisition Regulation Supplement (DFARS), and/or the FAR, then the published Regulations will control.

Regulation: FAR 15.604 'Agency points of contact' - (a) Preliminary contact with agency technical or other appropriate personnel before preparing a detailed unsolicited proposal or submitting proprietary information to the Government may save considerable time and effort for both parties (see [15.201](#)). Agencies must make available to potential offerors of unsolicited proposals at least the following information:

(1) Definition (see 2.101) and content (see 15.605) of an unsolicited proposal acceptable for formal evaluation.

FAR 2.101 - *Unsolicited proposal* means a written proposal for a new or innovative idea that is submitted to an agency on the initiative of the offeror for the purpose of obtaining a contract with the Government, and that is not in response to a request for proposals, Broad Agency Announcement, Small Business Innovation Research topic, Small Business Technology Transfer Research topic, Program Research and Development Announcement, or any other Government-initiated solicitation or program.

FAR 15.605 Content of unsolicited proposals.

Unsolicited proposals should contain the following information to permit consideration in an objective and timely manner:

(a) Basic information including-

- (1) Offeror's name and address and type of organization; e.g., profit, nonprofit, educational, small business;
- (2) Names and telephone numbers of technical and business personnel to be contacted for evaluation or negotiation purposes;
- (3) Identification of proprietary data to be used only for evaluation purposes;
- (4) Names of other Federal, State, or local agencies or parties receiving the proposal or funding the proposed effort;
- (5) Date of submission; and

(6) Signature of a person authorized to represent and contractually obligate the offeror.

(b) Technical information including-

(1) Concise title and abstract (approximately 200 words) of the proposed effort;

(2) A reasonably complete discussion stating the objectives of the effort or activity, the method of approach and extent of effort to be employed, the nature and extent of the anticipated results, and the manner in which the work will help to support accomplishment of the agency's mission;

(3) Names and biographical information on the offeror's key personnel who would be involved, including alternates; and

(4) Type of support needed from the agency; e.g., Government property or personnel resources.

(c) Supporting information including-

(1) Proposed price or total estimated cost for the effort in sufficient detail for meaningful evaluation;

(2) Period of time for which the proposal is valid (a 6-month minimum is suggested);

(3) Type of contract preferred;

(4) Proposed duration of effort;

(5) Brief description of the organization, previous experience, relevant past performance, and facilities to be used;

(6) Other statements, if applicable, about organizational conflicts of interest, security clearances, and environmental impacts; and

(7) The names and telephone numbers of agency technical or other agency points of contact already contacted regarding the proposal.

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(2) Requirements concerning responsible prospective contractors (see subpart 9.1), and organizational conflicts of interest (see subpart 9.5).

FAR 9.104-1 General standards.

To be determined responsible, a prospective contractor must-

- (a) Have adequate financial resources to perform the contract, or the ability to obtain them (see 9.104-3(a));
- (b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- (c) Have a satisfactory performance record (see 9.104-3 (b) and subpart 42.15). A prospective contractor shall not be determined responsible or non-responsible solely on the basis of a lack of relevant performance history, except as provided in 9.104-2;
- (d) Have a satisfactory record of integrity and business ethics (for example, see subpart 42.15);
- (e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors). (See 9.104-3(a).)
- (f) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them (see 9.104-3(a)); and
- (g) Be otherwise qualified and eligible to receive an award under applicable laws and regulations (see also inverted domestic corporation prohibition at 9.108).

FAR 9.505 - General rules.

The general rules in 9.505-1 through 9.505-4 prescribe limitations on contracting as the means of avoiding, neutralizing, or mitigating organizational conflicts of interest that might otherwise exist in the stated situations. Some illustrative examples are provided in 9.508. Conflicts may arise in situations not expressly covered in this section 9.505 or in the examples in 9.508. Each individual contracting situation should be examined on the basis of its particular facts and the nature of the proposed contract. The exercise of common sense, good judgment, and sound discretion is required in both the decision on whether a significant potential conflict exists and, if it does, the development of an appropriate means for resolving it. The two underlying principles are-

- (a) Preventing the existence of conflicting roles that might bias a contractor's judgment; and
- (b) Preventing unfair competitive advantage. In addition to the other situations described in this subpart, an unfair competitive advantage exists where a contractor competing for award of any Federal contract possesses-
 - (1) Proprietary information that was obtained from a Government official without proper authorization; or
 - (2) Source selection information (as defined in 2.101) that is relevant to the contract but is not available to all competitors, and such information would assist that contractor in obtaining the contract.

DARS 9.506 Procedures.

(S-90) Contractor participation in more than one of the following areas may give rise to an unfair competitive advantage resulting from access to advance acquisition planning, source selection sensitive or proprietary information. Furthermore, contractor participation in more than one area may give rise to a real or apparent loss of contractor impartiality and objectivity where its advisory or planning assistance in one area potentially affects its present or future participation in another area. The following is not an inclusive list, but represents some potential circumstances where OCCIs may occur:

Providing systems engineering, technical direction, or product support. Services or end items required to meet the mission requirements of DISA's activities and programs. This includes, for example: concept exploration and development; system design/engineering; system development and integration; COTS procurement and integration; internal development testing; deployment; installation; operations; and maintenance. When a contractor provides such services but does not have contractual responsibility for related development, integration, assembly or production for that system, that contractor is prohibited from competing either as a prime or subcontractor for a contract to supply that system.

1. *Preparing specifications and work statements.* With certain exceptions, a contractor who assists with, prepares, and/or furnishes contract specifications for a government requirement may not compete for the subsequent award because this may give that contractor an unfair competitive advantage. This includes, for example: requirements analysis, acquisition support, budget planning and management, business process reengineering, program planning and execution support, and independent technical management support.
2. *Providing evaluation services.* Contractors cannot evaluate their own proposals, products and services, or those of their market competitors whose development or

marketing contractor is or has been substantially involved because the contractor is placed in a position whereby their judgment may be biased. For example, it would be inappropriate for a contractor to assist in the evaluation of proposals if it will financially benefit from the selection of one company over another. Further, increased attention should be given to situations where a contractor is in a position to assess or evaluate a competitor where detrimental findings could serve, directly or indirectly, the interest of the advising contractor. Further, the contractor could have inappropriate access to competitors privileged and confidential business information. Therefore, all parties involved must ensure proper safeguards are taken and integrity of the process to protect the Government's best interest.

3. *Obtaining access to proprietary information.* When a contractor requires proprietary information from others to perform on a Government contract and can use the leverage of the contract to obtain it, the contractor may gain an unfair competitive advantage unless restrictions are imposed. These restrictions protect the information and require companies to provide it when appropriate and necessary for contract performance. For example, services which, by their very nature, give the contractor or subcontractor access to extensive data about the contracts and business operations of competitor contractors. Such an advantage could be perceived as being unfair by a competing contractor who is not given similar access to the same relevant information.

DISA OCI Terms and Conditions

An offeror shall specifically identify in its proposal, whether or not any potential or actual Organizational and Consultant Conflicts of Interest (OCCI) as described in Federal Acquisition Regulation (FAR) Subpart 9.5 exists. The OCCI language is contained along with the FAR/DFARS provisions/clauses as H1, Organizational and Consultant Conflicts of Interest (OCCI). If an offeror believes that no OCCI exists, the OCCI response shall set forth sufficient details to support such a position. If an offeror believes that an actual or perceived OCCI does exist on this procurement, the offeror shall submit an OCCI plan with the proposal, explaining in detail how the OCCI will be mitigated and/or avoided.

H1 ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST (OCCI) (JAN 2020)

If the contractor or a subcontractor breaches any of the OCCI restrictions of the contract, to include any OCCI mitigation plan submitted with its offer, or does not disclose or misrepresents any relevant facts concerning its conflict of interest, the government may take appropriate action, including terminating the contract, in addition to any remedies that may be otherwise permitted by the contract or operation of law.

(3) Guidance on preferred methods for submitting ideas/concepts to the Government, such as any agency: upcoming solicitations; Broad Agency Announcements (BAA); Small Business Innovation Research (SIBR) programs; Small Business Technology Transfer Research (STTR) programs; Program Research and Development Announcements (PRDA); or grant programs.

Announcements posted via sam.gov and/or dreamport.tech and individual solicitations, for the types of actions noted (BAA, SIBR, etc.) will specify preferred methods for responses/submissions. DISA does not have Grant authority.

DISA 101 Small Business Orientation

The DISA Office of Small Business Programs (OSBP) hosts a monthly DISA 101 Small Business Orientation forum, an interactive event that provides an overview of DISA, what the agency buys, how the agency buys, and how to find information regarding contracting opportunities and networking. Request an invitation by sending an email to disasmallbusiness@mail.mil with "DISA 101 Small Business Orientation Request" in the subject line. Small businesses are encouraged to attend the forum before requesting a one-on-one appointment with a DISA OSBP professional.

A copy of the "DISA Acquisition Opportunities", updated quarterly (in January, April, July, and October) can be found on the Procurement Directorate - Defense Information Technology Contracting Organization (DITCO) home page at <https://www.ditco.disa.mil/> under the "Procurement News" tab.

In addition, every year DISA hosts a Forecast to Industry which provides industry partners an opportunity to learn about the agency's plans for the future and associated contracting opportunities. Attendees at this and other events (e.g., AFCEA TechNet Cyber Symposiums) provide an opportunity to meet with DISA personnel. Visit <https://www.disa.mil/NewsandEvents/Events> for more information.

(4) Agency points of contact for information regarding advertising, contributions, and other types of transactions similar to unsolicited proposals.

INDUSTRY PARTNERS

The Defense Information Systems Agency partners with industry to develop and acquire information technology services and capabilities used to support our nation's warfighters and leaders. For opportunities and information, please visit <https://disa.mil/About/Industry-Partners>.

DISA will accept valid unsolicited proposals for review. DISA does not solicit or review advertising and contributions. Other Transactions are managed by DITCO-Scott, PL84.

(5) Information sources on agency objectives and areas of potential interest.

DISA's [Strategic Plan](#) articulates the Agency's mission and vision as the Nation's premiere IT Combat Support Agency and the trusted provider to connect and protect the warfighter in cyberspace. The strategic plan is an overarching framework to explore technologies and evolve service delivery to drive a more secure, seamless and cost-effective DOD IT architecture. Acquiring Telecommunications, Information Technology

and Cyber products and services for the military is a key role of DISA as a Combat Support Agency to Connect, Protect, and Serve the warfighter in cyberspace.

A copy of the “DISA Acquisition Opportunities” can be found on the Procurement Directorate - Defense Information Technology Contracting Organization (DITCO) home page at

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evaluation. If the proposal does not meet the requirements of FAR 15.606-1(a) and should be rejected, the PL22 shall inform the offeror the reasons for rejection.

15.606-2 Evaluation.

- (a) PL22 will coordinate comprehensive evaluations and will attach or imprint on each unsolicited proposal circulated for evaluation, if not already present, the legend required by FAR 15.609(d) within 15 business days after receipt of the unsolicited proposal.
- (b) If the unsolicited proposal meets the criteria in FAR 15.605 and 15.606-1, PL22 will forward the unsolicited proposal to the appropriate technical representative, as designated by the appropriate CoCO, for a comprehensive technical review. The technical review shall include a recommendation for acceptance or rejection of the proposal after considering the factors outlined in FAR 15.603. The technical evaluation recommendation to accept or reject the unsolicited proposal shall be documented with supporting rationale.

(S-90) PL22 will review the entire package including the unsolicited proposals and the technical evaluation and forward the package to legal for review. Legal will provide comments concurring or non-concurring with the evaluation decision.

15.607 Criteria for acceptance and negotiation of an unsolicited proposal.

(S-90) A final determination to accept or reject an unsolicited proposal will be made by the Vice, Procurement Services Executive (PSE), or by the PSE.

(S-91) PL22 will draft a proposed letter to accept or reject the unsolicited proposal, citing regulatory reasons if the unsolicited proposal is rejected, and may use statements from the evaluation.

(7) Instructions for identifying and marking proprietary information so that it is protected and restrictive legends conform to 15.609.

FAR 15.609 Limited use of data.

- (a) An unsolicited proposal may include data that the offeror does not want disclosed to the public for any purpose or used by the Government except for evaluation purposes. If the offeror wishes to restrict the data, the title page must be marked with the following legend:

Use and Disclosure of Data

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed-in whole or in part-for any purpose other than to evaluate this proposal. However, if a contract is awarded to this offeror as a result of-or in connection with-the submission of these data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in these data if they are obtained from another source without restriction. The data subject to this restriction are contained in Sheets [insert numbers or other identification of sheets].

- (b) The offeror shall also mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.
- (c) The agency point of contact shall return to the offeror any unsolicited proposal marked with a legend different from that provided in paragraph (a) of this section. The return letter will state that the proposal cannot be considered because it is impracticable for the Government to comply with the legend and that the agency will consider the proposal if it is resubmitted with the proper legend.

No DISA supplementation.