

hearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than May 15, 1999. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, DC this 16th day of March 1999.

Alexis M. Herman,
Secretary of Labor.

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OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Test Plan of Nuclear Regulatory Commission Pursuant to the Federal Acquisition Streamlining Act of 1994

AGENCY: Office of Federal Procurement Policy (OFPP), OMB.

ACTION: Notice of test plan submitted by the Nuclear Regulatory Commission (NRC) under the authority of section 5061 of the Federal Acquisition Streamlining Act of 1994 (FASA).

SUMMARY: Section 5061 of FASA allows the Administrator of OFPP to test alternative and innovative procurement procedures at up to six agencies. The total estimated life cycle cost for each test may not exceed \$100,000,000. NRC has submitted a plan pursuant to section 5061 to test a focused source selection procedure. The test entails a phased process beginning with a streamlined procedure for identifying the most competitive sources, followed by a proposal development and evaluation effort involving the three most promising sources. NRC's test further involves an intense negotiation process where efforts to reach agreement are prioritized based on the strength of the offerors' proposals.

Widespread public notice will be provided to announce each acquisition conducted pursuant to this test. All interested parties will be permitted to participate in the initial phase of any such acquisition. Each contract awarded pursuant to this test will not exceed \$5 million in total value.

EFFECTIVE DATE: The test will begin on December 17, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Hopkins, Contract Policy Analyst, Division of Contracts and Property Management, U.S. Nuclear Regulatory Commission, Mail Stop T712, Washington, DC 20555; E-Mail:

sbh@nrc.gov; Telephone: 301-415-6514.

SUPPLEMENTARY INFORMATION: OFPP has authority under FASA section 5061 to conduct additional test programs. Agencies interested in participating in a test program should contact Mr. Nathan Tash, Deputy Associate Administrator for Procurement Innovation, Office of Federal Procurement Policy, 725 17th Street, NW, Washington, DC 20503; E-Mail: ntash@omb.eop.gov; Telephone: 202-395-6167.

Dated: March 15, 1999.

Deidre A. Lee,
Administrator.

Attachment

U.S. Nuclear Regulatory Commission Innovation Test Plan for Focused Source Selection Procedures (Federal Acquisition Streamlining Act Section 5061)

I. Summary of the Test

The Nuclear Regulatory Commission (NRC) proposes to test a focused source selection procedure under the FASA test authority. The procedure has three primary components. The first component entails a streamlined process for obtaining comments through the Internet on draft statements of work and identifying the most promising interested sources. The second involves a proposal development and evaluation effort involving the three most highly rated sources. The third component involves an intense negotiation process where the focus is prioritized based on the ranking of the offerors. The efficiency of many of these processes will be further enhanced through the use of electronic commerce (EC).

For selected acquisitions, NRC will solicit capability statements from all interested sources and then request full proposals only from the three sources rated most highly based on the capability statements. NRC will employ the Internet to issue notices, draft statements of work (SOW) and requests for proposals, as well as to receive responses from offerors that can provide such electronically. NRC will negotiate solely with the highest ranked offeror and will conduct negotiations with the second ranked offeror only if agreement cannot be reached with the highest ranked offeror. Similarly, negotiations with the third ranked offeror will take place only if agreement cannot be reached with either of the two higher ranked offerors. To maintain competitive pressure, NRC would reserve the right to reopen negotiations with any of the three offerors after

having tried to negotiate a contract with each of them.

By initiating competitions without the submission of formal proposals, NRC believes it will be able to reduce the burden (both on the government and interested sources) typically associated with initially determining which sources are the most competitive. Because the down select would be mandatory, NRC believes this initial screening process will be more effective than the advisory, multi-step process currently authorized by FAR Part 15. NRC further believes that the three sources selected to compete further will have a strong incentive to perform "due diligence" to learn about agency needs, to develop more innovative high value solutions that can better fit with those needs, and to offer stronger proposals.

NRC appreciates the benefits of competition generated by simultaneous negotiations among the most highly rated offerors. At the same time, NRC believes it may also be possible to obtain good deals more efficiently and effectively by prioritizing the focus of its negotiation efforts based on the ranking of these offerors. In most cases, NRC anticipates that it will be able to reach agreement with the top ranked offeror without having to undertake further effort. The test will offer NRC an opportunity to examine if and when negotiating in a successive (versus simultaneous) manner may result in an effective use of those resources dedicated to contract negotiations.

II. Scope of the Test

The Division of Contracts and Property Management, Headquarters, NRC will use focused source selection techniques to procure goods and services, in the NRC's administrative program area. NRC decided to focus on the administrative program area because NRC has not had the same level of success applying existing streamlining measures to administrative service requirements as it has to other program areas.

NRC will review procurement plans for Fiscal Year 2000 to determine which procurements may be candidates for use of the innovation. Among the considerations NRC will use in selecting procurements for the test, NRC will consider the complexity of procurements and whether they involve high proposal preparation cost that discourage capable sources from participating. A project team of procurement policy and operations staff from the Division of Contracts and Property Management (DCPM), including those who participated in the development of the innovation, will

make the initial review. Those procurements which are recommended for the test program will be discussed in early planning meetings with representatives from contracting, the requiring technical offices, budget, and the NRC's Office of Small Business and Civil Rights. The contracting officer will make the final selection of the procurements for the test program.

III. Acquisition Strategy for the Test (Including a Description of (a) How Procedures Under the Test Will Differ From Those Currently Used and (b) the Activities Anticipated in the Various Phases of the Acquisition Cycle Affected by the Test—e.g., Acquisition Planning, Presolicitation, Solicitation, Evaluation, Award, Administration)

- **Soliciting and Making an Initial Assessment of Interested Sources**

Current process. Today, NRC publicizes notices of contracting opportunities in the Commerce Business Daily (CBD) and invites interested sources to obtain solicitations and submit proposals. Offeror submissions, which include full cost and technical proposals, are then evaluated by NRC to determine initially which sources are the most competitive. For acquisitions of non-commercial administrative services (e.g., research and development services), solicitations are issued after a waiting period of 15 days. If the acquisition is in excess of the simplified acquisition threshold, the solicitation will provide a response time of not less than 30 days.

NRC has come to realize that there is great time and cost involved in making an initial assessment of leading contenders based on full cost and technical proposals. The multi-step selection process set forth in the revised FAR Part 15 provides a helpful means for agencies to reduce the burden associated with conducting initial screenings (i.e., by requiring interested sources to limit their initial submission to information on capabilities, experience, past performance, and any additional area specified by the contracting officer). However, Part 15 still permits a less competitive source to require the agency to review a full proposal. This can be burdensome and inefficient (for both parties).

Test process. Under the test, the NRC will still provide widespread notice of its contracting opportunities. NRC will issue an abbreviated notice with basic information about the planned procurement, make available a draft SOW, request interested parties to provide capability statements (e.g., past performance information and resumes)

and invite comments on the draft SOW. The posting will include simplified criteria to be used by NRC to evaluate responses.

Specifically, interested parties will be required to provide the following information:

- (1) Name and address of company.
- (2) Name, title, Internet address, telephone and fax numbers of person providing information, and person authorizing submission of information for the firm.
- (3) EIN/TIN number.
- (4) Qualifications of proposed personnel.
- (5) List of (usually up to five) contracts performed by the organizational unit of the firm/individual which is proposed to perform the subject work for the NRC that are relevant to the proposed NRC work. Interested parties will be asked to include:
 - a. contract number
 - b. brief description of the project
 - c. two contacts at the organization which awarded each contract
- (6) Conceptual approach to performing the work.
- (7) Additional information as necessary (e.g., conflict of interest, type of software license).

Interested parties will be informed that their total response excluding qualifications of proposed personnel, must not exceed text which would fill five 8½×11 inch pages in WordPerfect or ASCII, in no smaller than 10-point print. Oral presentations may be used in lieu of written responses.

Because less detailed information is being sought, NRC will permit response times as few as 15 days (rather than the 30 days typically required for non-commercial goods and services above the SAT). A longer period may be authorized by the NRC contracting officer, if warranted.

NRC will score each response based upon an evaluation of past experience of the firm and proposed personnel in performing the same or similar work. Only the three top ranked responses will be permitted to proceed further in the competition. Those excluded from further participation will save the wasted effort of developing proposals that would not likely be selected. This process also should encourage more participation by firms that have successfully performed in the private sector, but because of the high cost, have not previously chosen to compete for government contracts. NRC will save the time spent evaluating detailed proposals when a simpler submission could effectively permit the government

to select those sources that are likely to submit the most competitive offers.

NRC recognizes the growing benefit EC offers to improve the ease, efficiency, and effectiveness of interactions between NRC and its vendors.

Like other agencies, NRC has been making its notices of open market contract opportunities above \$25,000, that would otherwise be published in the paper version of the CBD, available to the public free-of-charge through "CBDNet." Under the test, NRC will make its abbreviated notices available through CBDNet. In addition, simultaneous to the publication of these notices, NRC will post the draft SOW on the "Contracting with the NRC" Internet site. This posting will include a "Summary Sheet for Solicitations" with basic information about the planned procurement and criteria for evaluating offeror's capabilities. (As a general matter, the Internet site will provide "help and information" including an explanation of the test procedures and a glossary of terms.) Interested firms will be invited to submit responses via the Internet, facsimile or in hard copy. Because interested parties will be able to access a draft SOW electronically through the NRC's Internet homepage at the same time the CBDNet notice is posted, the 15-day waiting period described above will be eliminated.

NRC is aware that a pilot effort is under way to test an electronic posting system (EPS) that would distribute acquisition-related information to industry more quickly and economically. That system is designed to permit buyers to post solicitations and other pertinent information, in addition to notices, directly to the Internet, thus giving sellers access to this information through a single, government-wide point of entry. NRC will consider migrating to EPS during the test if it determines that EPS is capable of providing efficient and effective access to acquisition-related information.

- **Issuance of Request for Proposals (RFPs), Proposal Submission, and Evaluation**

Current process. As noted above, all interested sources are offered an opportunity to submit cost and technical proposals. This is also true under the advisory, multi-step process currently authorized by FAR Part 15.

Test process. Only the three top ranked respondents will be provided an RFP (which will include the final SOW and all applicable terms and conditions). The RFP will give each of these firms an opportunity to submit a technical and cost proposal. The NRC

will score and rank these three responses using the evaluation criteria that were included in the initial posting on the Internet.

Because only three sources will be offered the opportunity to submit proposals, NRC believes these scores will have a strong incentive to perform "due diligence" to work with NRC's integrated product team, end-users, and others to learn about agency needs, to more effectively and efficiently develop high value solutions that can better fit with those needs, and to offer stronger proposals.

- **Negotiation and Award**

Current process. Currently, if discussions are to be conducted, a competitive range is established comprised of all of the most highly rated proposals. Discussions are conducted by the contracting officer with each offeror within the competitive range. The discussions are tailored to each offeror's proposal.

Test process. NRC will negotiate with the offeror ranked highest based on an integrated cost/technical assessment. If both parties are unable to reach agreement, NRC may end negotiations with that firm and begin negotiations with the next highest ranked firm. The NRC may re-open negotiations with one or more firms if agreement cannot be reached with one of the next highest ranked firms. If agreement cannot be reached with any of the three firms, the solicitation will be canceled.

NRC recognizes that the recent rewrite of FAR Part 15 will better focus the government's resources on obtaining the best value through a more intensive negotiation process with those that are the most highly rated. However, NRC believes it may also be possible to obtain good deals by focusing its negotiation efforts on one offeror at a time, beginning with the highest technically qualified offeror—trying to reach agreement with that offeror. To maintain competitive pressure, NRC would reserve the right to reopen negotiations with any of the three offerors after having tried to negotiate a contract with each of them. If agreement can be reached with the top ranked offeror without having to undertake further negotiation, as NRC anticipate will often be the case, NRC believes it may save time and administrative expense in the negotiation process without sacrifices to the value received under the contract. The test will offer NRC an opportunity to examine if and when negotiating in this successive (versus simultaneous) manner may hold benefit. For comparative purposes, NRC may also conduct, where appropriate,

simultaneous discussions with the three highest ranked offerors for selected procurements.

IV. Test Objectives and Metrics

NRC expects to achieve time savings, cost savings, and increased customer satisfaction through use of its focused source selection procedures.

Time savings. Time savings will be measured by comparing overall procurement acquisition lead times (i.e., the time that elapses from the point when the procurement request is received in the procurement office to the time of award) experienced prior to the test versus under the test for similarly scoped acquisitions. If practicable, NRC will attempt to identify time savings associated with key phases of the test (e.g., identification of the three top ranked offerors, conduct of negotiations).

Cost savings. Value received under contracts awarded under the test will be compared to the value received under similarly scoped contracts awarded prior to commencement of the test. Where a close match does not exist, a comparison of individual categories of work and cost elements will be made where feasible.

Customer satisfaction. A customer service survey will be used to measure customers' (i.e., program offices') satisfaction. NRC is currently developing a survey for general use. This survey will be reviewed to determine if it is suitable for the test or needs to be modified. In addition, NRC will survey participating organizations to obtain their feedback.

Small business participation. Participation by small businesses in test procurements will be compared with small business participation in similar procurements conducted prior to the test innovation. Participation will be measured by evaluating the value of prime contract awards.

V. A List of Regulations, Including Those Required by Law, for Which a Waiver is Necessary for the Successful Completion of the Test Program

NRC seeks to waive the following regulatory requirements.

1. For those cases where non-commercial contracts will result, the time standards set forth in Federal Acquisition Regulation (FAR) 5.203, which implements the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(3)) and the Small Business Act (15 U.S.C. 637(e)(3)) in order to waive the 15-day period and structure a process which allows for flexible deadlines for preparation and

submission of materials by interested parties.

2. FAR 5.207(c)(2)(xv), which implements the Office of Federal Procurement Policy Act (41 U.S.C. 416(b)(4)) and the Small Business Act (15 U.S.C. 637(f)(4)) which requires that Commerce Business Daily notices include a statement that, "all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency."

3. FAR 6.003, which defines "full and open competition" to mean that all responsible sources are permitted to compete, implementing the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)), and FAR 6.101, implementing the policy of full and open competition set forth in the Federal Property and Administrative Procedures Act (41 U.S.C. 253).

4. FAR 15.306(d), which requires negotiations with all offerors in the competitive range implementing the Federal Property and Administrative Procedures Act (41 U.S.C. 253b(d)(1)(A)).

5. FAR 15.306(c) which effectively requires consideration of cost in making down select decisions.

VI. Anticipated Impact on Small Businesses, Particularly Small Disadvantaged Businesses (Including a Description of Actions To Be Taken To Mitigate Any Anticipated Negative Impacts)

Small businesses may better be able to compete because they will have an opportunity to comment on the SOW, and they will not have to expend large amounts of resources to determine if they are among the three most highly ranked offerors. The NRC will continue to set aside procurements exclusively for small businesses when conditions permit after consultation with the NRC Office of Small and Disadvantaged Business Utilization.

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NUCLEAR REGULATORY COMMISSION

[Docket No.: 030-05980]

Consideration of License Amendment for Decommissioning the Safety Light Corporation Site in Bloomsburg, PA, and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.