

1871.401-4 Competitive negotiations using qualitative criteria (Best Value Selection).

(a) * * *

(5) When proceeding with an unrestricted acquisition see—

(i) FAR Subpart 19.11 regarding use of the price evaluation adjustment for SDB concerns. SDB concerns that choose the FAR 19.11 price evaluation adjustment shall receive no consideration under a MidRange BVS value characteristic that addresses the FAR 19.1202 SDB participation evaluation;

(ii) FAR 19.1202 regarding the evaluation of the participation of SDB concerns in performance of the contract. For BVS MidRange acquisitions, SDB participation shall be evaluated as a BVS value characteristic (see 1871.603(b)); and

(iii) FAR Subpart 19.13 regarding use of the price evaluation preference for HUBZone small business concerns.

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13. In section 1871.401-5, paragraph (b) is revised to read as follows:

1871.401-5 Noncompetitive negotiations.

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(b) Procedures.

(1) The buying team shall request pricing information in accordance with FAR 15.402 and 15.403.

(2) The technical member of the buying team shall provide technical assistance to the procurement member during evaluation and negotiation of the contractor's offer.

14. Section 1871.405 is removed.

15. Section 1871.505 is revised to read as follows:

1871.505 Notifications to unsuccessful offerors.

For solicitations that were posted on the NAIS, a preaward notice shall be electronically transmitted to the offerors. In addition, contracting officers shall comply with the preaward notices for small business programs in FAR 15.503(a)(2).

16. In section 1871.602, the second sentence is revised to read as follows:

1871.602 Specifications for MidRange procurements.

* * * The offeror will be guided in meeting the Government's needs by a separate set of value characteristics which establish what the Government considers to be valuable in an offer beyond the baseline requirement. * * *

17. In section 1871.603, paragraphs (b) and (c) are redesignated as paragraphs (d) and (e), and new paragraphs (b) and (c) are added to read as follows:

1871.603 Establishment of evaluation criteria.

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(b) For unrestricted acquisitions, small disadvantaged business (SDB) participation shall be evaluated as a BVS value characteristic (see FAR 19.1202-3). In order to receive consideration under the value characteristic, the offeror must propose a target for SDB participation greater than the baseline requirement. The baseline requirement for SDB participation is zero or no SDB participation. SDB concerns that choose the price evaluation adjustment under FAR 19.11 shall receive no consideration under this MidRange BVS value characteristic. Like other value characteristics, offerors meeting the baseline, but proposing no value above the baseline, and which are otherwise acceptable, are to be considered for award if they are finalists.

(c) Past performance may be included as a value characteristic or considered as a separate evaluation criteria. If considered as a separate criterion, the relative importance of past performance in relation to cost and technical must be defined in the solicitation.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**CFR 48 Part 1842****Contracting Officer's Technical Representative (COTR) Training**

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to make the required COTR training subjects more logically coherent and flexible. Specifically, this change: (1) eliminates the Service Contract Act as a mandatory topic; (2) combines coverage of the Anti-Deficiency Act with the Limitation of Funds and Limitation of Cost clauses; and (3) enables Procurement Officers to credit local ethics training against the requirement for instruction in Procurement Integrity.

EFFECTIVE DATE: April 23, 1999.

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SUPPLEMENTARY INFORMATION:

Background

The objective of NASA's COTR training is to provide a common background in contract management processes and contract mechanisms for NASA's COTRs to successfully apply their delegated authority toward project objectives. In fiscal year 1998, a review of NASA's training program resulted in actions to clarify the subjects that are required to be addressed and give NASA field installations more flexibility in how they implement the training.

Impact**Regulatory Flexibility Act**

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for comments is not required. However, comments from small business entities concerning the affected NFS coverage will be considered in accordance with 5 U.S.C. 610. Such comments may be submitted separately and should cite 5 U.S.C. 601, *et seq.*

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1842

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Part 1842 is amended as follows:

PART 1842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

1. The authority citation for 48 CFR Part 1842 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In section 1842.270, paragraph (f) is revised to read as follows:

1842.270 Contracting officer technical representative (COTR) delegations.

* * * * *

(f)(1) Mandatory training for COTRs and their alternates shall include the following core topic areas:

(i) Contracting authority and contract modifications (including non-personal services and inherently governmental functions);

(ii) Inspection and surveillance;

(iii) Changes and performance-based contracting;

(iv) Contract financial and property management (including "Limitation of Cost" clause, Anti-Deficiency Act, "Limitation of Funds" clause); and

(v) Disputes.

(2) Procurement officers are responsible for assuring that the course(s) utilized by their center address the mandatory core topics in sufficient detail for the purpose of COTR training. Procurement officers may accept the following training alternative(s) in satisfaction of comparable

requirement(s) specified in paragraph (f)(1) of this section:

(i) Another center's COTR training; or

(ii) Annual ethics training.

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