

---

POLICY AND PROCEDURES REGARDING  
UNSOLICITED PROPOSALS  
Table of Contents

---

1. General
  - .1 Introduction
  - .2 Exception
2. Policy
  - .1 General
  - .2 Specific
3. Administrative Action
  - .1 General Action
  - .2 Acquisition Action
  - .3 Technical Program Action
  - .4 Noncompetitive Considerations
4. Disposition of Unsolicited Proposals
  - .1 General Procedures
  - .2 Justification for Noncompetitive Solicitations

---

POLICY AND PROCEDURES REGARDING  
UNSOLICITED PROPOSALS  
General

---

1. GENERAL

1.1 Introduction. This supplement prescribes policy and procedures for reviewing and processing unsolicited proposals received by any Bureau activity. See Supplements 6, 11, 28 and 31 for additional information.

An unsolicited proposal is a written offer to perform a proposed task or effort, initiated and submitted to the Bureau by an offeror without a Bureau solicitation, with the objective of obtaining a contract.

1.2 Exception. Advertising material, technical correspondence, or commercial product offerings and contributions which are submitted to the Bureau shall not be considered as unsolicited proposals within the intent of this supplement.

---

POLICY AND PROCEDURES REGARDING  
UNSOLICITED PROPOSALS  
Policy

---

2. POLICY

2.1 General. It is Bureau policy to evaluate unsolicited proposals in a manner which will encourage offerors to disclose to the Bureau those ideas which they have originated, conceived, or developed.

A. Bureau personnel evaluating unsolicited proposals shall give fair and impartial consideration to all proposals and shall respect the confidential nature of the material disclosed therein.

B. An unsolicited proposal directed to a specific person within the Bureau without reference to the Bureau itself is not considered as submitted to the Bureau, and it shall be returned to the offeror.

C. The offeror of an unsolicited proposal is not automatically (nor necessarily) entitled to preferential treatment in the award of any contract for the performance of the specific work described in such a proposal. (See paragraph 2.2 below).

2.2 Specific. All Bureau contract acquisitions shall be made on a competitive basis to the maximum practicable extent with the exception of those negotiated under the authority of Pub. L. 93-638 (25 U.S.C. 450 et seq.). However, unsolicited proposals are one method of acquisition where an other than competitive contract award may be acceptable; e.g., if:

A. After technical evaluation, only one source is found fully qualified to perform the proposed work;

B. The proposal offers significant promise, represents the product of original thinking, and was submitted in confidence by one source;

C. The proposal offers the advantage of a unique and significant accomplishment by the proposer; or

D. The proposal offers a significant product or new idea which has great potential benefit to the Bureau.

POLICY AND PROCEDURES REGARDING  
UNSOLICITED PROPOSALS  
Administrative Action

---

3. ADMINISTRATIVE ACTION

3.1 General Action. Unsolicited proposals received in any Bureau activity shall be routed immediately to the Contracting Officer in a sealed blue envelope marked "UNSOLICITED PROPOSAL." The Contracting Officer shall acknowledge to the offeror the receipt of all unsolicited proposals. Under no circumstances shall the technical or program specialist communicate in any manner with the offeror.

3.2 Acquisition Action. If the unsolicited proposal has affixed thereon a restrictive legend which restricts use, disclosure, or duplication of the proposal to evaluation purposes only, the Contracting Officer shall forward the proposal to the cognizant Bureau technical office for evaluation, calling its attention to the restrictive legend. If the restrictive legend appears incompatible with Bureau evaluation procedures, the Contracting Officer shall obtain a legal determination as to whether or not the restriction precludes a technical evaluation by the Bureau.

A. If it is determined that the restrictive legend would preclude an adequate technical evaluation, the Contracting Officer shall return the proposal to the offeror with a specific explanation as to why the restriction precludes a complete technical evaluation of the proposal. The Contracting Officer shall advise the offeror that the proposal will be evaluated if resubmitted with a restrictive legend compatible with Bureau procedures. Resubmitted proposals having a satisfactory legend will be forwarded by the Contracting Officer to the cognizant Bureau technical office for evaluation.

B. If an unsolicited proposal which does not have a restrictive legend affixed thereon contains language within the technical description which might be construed as tending to unduly limit the disclosure/evaluation of the proposal, the Contracting Officer shall obtain a legal opinion as to whether or not the proposal language authorizes unrestricted disclosure of the proposal for evaluation. If it is determined that there is no indication therein as to whether or not the prospective contractor wished to impose any restrictions on disclosure of the proposal, the Contracting Officer shall attach a cover sheet on the proposal bearing the notice "UNSOLICITED PROPOSAL - USE OF DATA LIMITED," which will restrict use, disclosure or duplication of the proposal to evaluation purposes only. The proposal will then be forwarded to the cognizant Bureau technical office for evaluation.

3.3 Technical Program Action. The cognizant Bureau program evaluator shall determine whether or not the unsolicited proposal sets forth significant technological/systems approaches in sufficient detail to demonstrate that further development and exploitation of the designs/concepts by the Bureau are

---

POLICY AND PROCEDURES REGARDING  
UNSOLICITED PROPOSALS  
Administrative Action

---

justified. Technical evaluation of unsolicited proposals that warrant development and exploitation requires the development of two distinct technical determinations:

A. A determination is made as to whether or not the technical dissertations of the proposal are the product of original thinking. If they are, that proposal must be evaluated as an other than competitive offer. In order to determine that an unsolicited proposal is or is not an other than competitive offer, the Bureau evaluator shall decide whether:

(1) Any of the technical dissertations represent technical designs, concepts, or supplies which may not be new to the cognizant technical evaluator but are of interest to the Bureau; and/or

(2) Through any inadvertent or premature disclosure of information concerning a proposed Bureau acquisition, the person or firm submitting the unsolicited proposal may have acquired an advantage which generated the proposal.

B. A determination as to whether or not the technical disclosure of the proposal offers significant promise and whether it warrants further development and exploitation of the technical designs/concepts contained therein by the Bureau even though it is determined that the proposal cannot be an other than competitive offer.

3.4 Other Than Competitive Considerations. The cognizant Bureau technical evaluator shall state prominently in the evaluation report that the proposal is/is not entitled to other than competitive consideration, citing the particular facts that support such a conclusion. Treating unsolicited proposals as other than competitive offers without making a determination on each proposal would destroy public confidence in the acquisition policy of the Bureau. If the evaluator determines the unsolicited proposal should be acquired noncompetitively, the evaluation report shall be accompanied by a statement justifying other than competitive procurement which will be reviewed by the Acquisition/Assistance Agreement Review Committee (ARC), as specified in Supplements 2 and 3 of 19 BIAM.

POLICY AND PROCEDURES REGARDING  
UNSOLICITED PROPOSALS  
Disposition of Unsolicited Proposals

---

4. DISPOSITION OF UNSOLICITED PROPOSALS

4.1 General Procedures. The receipt of an unsolicited proposal by the Bureau from a source does not, in itself, constitute a justification for an other than competitive acquisition from that source. A favorable technical evaluation of an unsolicited proposal is not, in itself, sufficient justification for an other than competitive negotiation with the source that submitted the proposal. It may be possible that there are other potential sources with an equally suitable approach which could accomplish the same results.

A. Unsolicited proposals that are determined by the cognizant Bureau technical evaluator to be of no interest to the Bureau shall be returned with an evaluation report to that effect to the Contracting Officer who will advise the offeror and return all copies of the unsolicited proposal.

B. Unsolicited proposals that offer significant promise and warrant further exploitation or development by the Bureau shall be processed in accordance with the instructions contained in Supplement 3 of 19 BIAM, Development of Acquisition Requests.

C. On proposals that require additional information in order to conduct a thorough technical evaluation, the evaluator shall identify and specify the additional information required in a memorandum to the Contracting Officer who will take appropriate action.

4.2 Justification for Other Than Competitive Acquisition. When an unsolicited proposal has received a technical recommendation for acceptance and it is determined that the substance of the proposal is not available without restriction from another source, or competition is otherwise precluded, acquisition may be made on an other than competitive basis. The Bureau office sponsoring the acquisition shall support its recommendation with a written justification, as set forth in Interior Acquisition Regulation.

A. The written justification for other than competitive acquisition shall address the applicable factors: continuation of previous effort by the offeror; technical data and information available from the offeror; consideration of other sources for the acquisition; and, the reasons why the offeror is best able to fill the Bureau requirement.

B. The written justification shall also include, but not necessarily be limited to, one or more of the following findings, and the circumstances shall be fully explained:

(1) The proposal was selected on the basis of its overall merit, cost, and potential contribution to the Bureau program objectives after

---

POLICY AND PROCEDURES REGARDING  
UNSOLICITED PROPOSALS  
Disposition of Unsolicited Proposals

---

thorough evaluation and comparison with other proposals submitted in response to a public announcement of interest in receiving unsolicited proposals in that field.

(2) The proposal contains technical data and offers unique capabilities that are not available from another source, and it is not feasible or practicable to define the Bureau's requirement in such a way as to avoid the necessity of using technical data contained in the proposal.

(3) The proposal is submitted in response to a Bureau program for which there is specific statutory authorization to acquire on a noncompetitive basis.

C. Based on the above justification, the Contracting officer shall prepare a Determination and Findings for the contract file in accordance with the provisions of 48 CFR 15.3.