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## **Part IV – Representations and Instructions**

### **Section M**

#### **Evaluation Factors for Award**

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**M.1 DOE-M-2001 Proposal Evaluation – General – (Feb 2019) - Alternate II (Oct 2015)**

(a) Conduct of acquisition.

- (1) This acquisition will be conducted pursuant to the Federal Acquisition Regulation (FAR), Part 15 entitled, *Contracting by Negotiation*; Department of Energy Acquisition Regulation (DEAR), Part 915 entitled, *Contracting by Negotiation*; and the provisions of this solicitation.
- (2) DOE has established a Source Evaluation Board (SEB) to evaluate the proposals submitted by Offerors in response to this solicitation. Proposal evaluation is an assessment of the proposal and the Offeror's ability to perform the prospective contract successfully. Proposals will be evaluated solely on the factors specified in the solicitation against the evaluation factors in this Section M to determine the Offeror's ability to perform the contract.
- (3) The designated source selection authority will select an Offeror for contract award whose proposal represents the best value to the Government. The source selection authority's decision will be based on a comparative assessment of proposals against all evaluation factors in the solicitation. The source selection authority may reject all proposals received in response to this solicitation, if doing so is in the best interest of the Government.

(b) Deficiency in proposal.

- (1) A deficiency, as defined at FAR 15.001 entitled, *Definitions*, is a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level. No award will be made to an Offeror whose proposal is determined to be deficient.
- (2) A proposal will be eliminated from further consideration before completing the Government's evaluation if the proposal is deficient as to be unacceptable on its face. Deficiencies may include any exceptions or deviations to the terms of the solicitation. A proposal will be deemed unacceptable if it does not represent a reasonable initial effort to address itself to the material requirements of the solicitation, or if it does not substantially and materially comply with the proposal preparation instructions of this solicitation. Cursory responses or responses which merely repeat or reformulate the solicitation, including the Performance Work Statement (PWS) may be considered non-responsive to the requirements of the solicitation or otherwise be negatively evaluated. In the event that a proposal is rejected, a notice may be sent to the Offeror stating the reason(s) that the proposal will not be considered for further evaluation under this solicitation.

- (c) Responsibility. In accordance with FAR Subpart 9.1, *Responsible Prospective Contractors*, and DEAR Subpart 909.1 entitled, *Responsible Prospective Contractors*, the Procuring Contracting Officer (PCO) is required to make an affirmative determination of whether a prospective contractor is responsible. The PCO may, if necessary, conduct a pre-award survey of the prospective contractor as part of the considerations in determining responsibility. In the absence of information clearly indicating that the otherwise successful Offeror is responsible, the PCO will make a determination of non-responsibility and no award will be made to that Offeror; unless the apparent successful Offeror is a small business and the Small Business Administration issues a Certificate of Competency in accordance with FAR Subpart 19.6 entitled, *Certificates of Competency and Determinations of Responsibility*. The responsibility determination includes a finding that award of the contract to the

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Offeror will not pose an undue risk to the common defense and security as a result of its access to classified information or special nuclear material in the performance of the contract, as prescribed in Section L provision, DEAR 952.204-73, entitled Facility Clearance (Aug 2016) (DEVIATION) (Issued by DOE Policy Flash 2021-14), which requires submission of specific information by the Offeror related to foreign interests.

- (d) Award without discussions. In accordance with paragraph (f)(4) of the provision at FAR 52.215-1, *Instructions to Offerors – Competitive Acquisition*, the Government intends to evaluate proposals and award a contract without conducting discussions with Offerors. Therefore, the Offeror's initial proposal shall contain the Offeror's best terms from a cost or price and technical standpoint. The Government, however, reserves the right to conduct discussions if the PCO later determines them to be necessary and may limit the competitive range for purposes of efficiency.
- (e) Organizational conflicts of interest. The Offeror is required by the Section K provision entitled, *Organizational Conflicts of Interest Disclosure*, to provide a statement of any past, present, or currently planned interests related to the performance of the work and a statement that an actual or potential conflict of interest or unfair competitive advantage does or does not exist in connection with the contract resulting from the solicitation.

**M.2 Evaluation Factor – Staffing and Contract Transition Approach**

- (a) Staffing Approach. The evaluation of the Offeror's proposed Staffing approach will consider the following:
  - (1) DOE will evaluate the Offeror's management capabilities and proposed approach to providing an appropriately skilled and qualified workforce to effectively accomplish the EM CTSS PWS. DOE will evaluate the proposed approach to recruit, train, and retain the workforce required to effectively accomplish the EM CTSS PWS. DOE will evaluate the proposed source(s) of personnel, including the depth and breadth of personnel expertise.
- (b) Contract Transition Approach. The evaluation of the Offeror's proposed Contract Transition approach will consider the following:
  - (1) DOE will evaluate the proposed approach to achieve the Contract Transition requirements in Section C.3.1 for the secure, effective, and efficient transfer of responsibility for execution of the Contract with little or no disruption to ongoing operations.

**M.3 Evaluation Factor – Key Personnel**

- (a) Key Personnel. DOE will evaluate the proposed Program Manager and Business Manager. Failure of the Offeror to propose the required key personnel positions, or to confirm the availability of all key personnel as being assigned to the contract full-time will adversely affect the Government's evaluation of the proposal and may make the proposal ineligible for award. Additionally, failure of the Offeror to provide a letter of commitment for each key personnel will adversely affect the Government's evaluation of the proposal.
- (b) Resume. The individuals proposed as key personnel will be evaluated on the degree to which they are qualified and suitable for the proposed position in relation to the work for which they are proposed to perform and areas of responsibility. The qualifications and suitability of the individual key personnel will be evaluated on the following:

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- (1) Experience. The key personnel individually will be evaluated on their DOE, commercial, and/or other Government experience in performing work similar to the work to be performed in their proposed position, including leadership and other accomplishments, and significant contract performance difficulties and any corrective actions. More recent experience may be given greater consideration.
- (2) Education. The key personnel will be evaluated on their education, specialized training, active certifications, and licenses that support their suitability for the proposed position.
- (3) Professional References. DOE may contact any or all of the professional references, current or previous employers, clients, and other sources of information not provided by the Offeror, to verify the accuracy of the information contained in the resume and to further assess the qualifications and suitability of proposed key personnel.

Note: DOE experience is not necessarily evaluated with more similarity than non-DOE experience, based on the sole fact that it was work for DOE. The key personnel evaluation is based on the criteria listed above.

**M.4 DOE-M-2008 Evaluation Factor – Past Performance (Oct 2015) (Revised)**

- (a) Offeror. The Offeror will be evaluated on the Government’s assessment of relevant and recent past performance information obtained for the Offeror performing work similar in scope, size, and complexity to the portion of the PWS that each entity is proposed to perform. The information will be evaluated in order to assess the Offeror’s potential success in performing the work required by the contract. The evaluation will be based on the portion of work that each entity is proposed to perform, and may consider the following:
  - (1) Scope – type of work (e.g., work as identified in the PWS, including similar non-DOE work);
  - (2) Size – dollar value (approximate average annual value in relation to the proposed work; annual contract value of approximately \$10M for evaluation purposes); and
  - (3) Complexity – performance challenges (e.g., interfacing with multiple contractors and federal entities; oversight of reviewing, developing, and/or implementing environmental, safety, health, quality assurance, and security plans and programs in compliance with environmental and regulatory guidelines; providing capable and qualified subject matter experts in a compliant and efficient manner; overcoming obstacles to provide quality deliverables in a timely manner).

The higher the degree of relevance of the work, the greater the consideration that may be given. Additionally, Scope and Complexity may be considered more important than Size when determining relevancy.

DOE will evaluate recent past performance information for contracts that are currently being performed or have a period of performance end date within the last five years from the original solicitation issuance date for reference contracts provided in accordance with Section L.17(a). To the extent that performance evaluations are divisible, the Government will only evaluate performance information within the five-year period preceding the original solicitation issuance date. More recent past performance information may be given greater consideration.

- (b) Newly formed entity and predecessor companies. The evaluation of past performance for the Offeror may be based on the past performance of its parent organization(s), member organizations in a joint

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venture, limited liability company, or other similar or affiliated companies, provided the Offeror's proposal demonstrates that the resources of the parent, member, or affiliated company will be provided or relied upon in contract performance such that the parent, member, or affiliate will have meaningful involvement in contract performance. Meaningful involvement means the parent, member, or affiliate will provide material supplies, equipment, personnel, or other tangible assets to contract performance; or that the common parent will utilize the expertise, best practices, lessons learned, or similar resources from the affiliate to affect the performance of the Offeror. Past performance information from predecessor companies that existed prior to any mergers or acquisitions may also be considered where the Offeror's proposal demonstrates such performance reasonably can be predictive of the Offeror's performance.

- (c) Work to be performed. DOE will evaluate the Offeror in accordance with the work the entity has proposed to perform to cover the work scope described in the PWS. Each reference contract will be evaluated for relevancy in terms of scope, size, and complexity. The resulting rating may consider whether the Offeror has demonstrated relevancy to all PWS requirements.
- (d) No record of past performance. If the Offeror does not have a record of relevant past performance or if information is not available, the Offeror will be evaluated neither favorably nor unfavorably.
- (e) Performance information. The Government will only evaluate past performance information for work it considers relevant to the acquisition in terms of similar in scope, size, and complexity, as defined above in paragraph (a), and within the timeframe specified, as defined above in paragraph (a). The Offeror may also be evaluated on safety statistics (OSHA Days Away, Restricted or Transferred (DART) and Total Recordable Case (TRC)) and DOE enforcement actions and/or worker safety and health, nuclear safety, and/or classified information security incidents or notifications posted to the DOE Office of Enterprise Assessments website (<https://energy.gov/ea/information-center/enforcement-infocenter>) and corrective actions taken to resolve those problems.
- (f) Terminated contracts, cure notices, and conditional payment of fee/profit/other incentive actions. The Government may consider contracts of the Offeror that: (1) were terminated for default; (2) included a cure notice(s) in accordance with FAR 49 Termination of Contracts; and (3) included a conditional payment of fee/profit/other incentive action(s) as described in the DEAR over the preceding five years from the original solicitation issuance date, including the reasoning for the aforementioned actions.
- (g) Sources of past performance information. The Government may consider past performance information from sources other than those provided by the Offeror, such as commercial and government clients, government records, regulatory agencies, and government databases such as the Government's Contractor Performance Assessment Reporting System (CPARS) and award fee determinations. The Government may contact any or all of the references provided by the Offeror and will consider such information obtained in its evaluation. Note: DOE contracts are not necessarily evaluated with more relevance than non-DOE contracts, based on the sole fact that it was work for DOE. The evaluation of relevancy is based on the factors listed above. Scope, size, and complexity determinations will be made solely based on the relationship of past work to current requirements, without any preference or benefit given based on the entity for which the work was performed.
- (h) List of DOE contracts. The Government may consider the information provided per Section L, Attachment L-9, List of DOE Contracts, and evaluate past performance information on work

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determined to be relevant to the acquisition in terms of similar in scope, size, and complexity as defined above in paragraph (a).

**M.5 Evaluation Factor – Cost and Fee**

The Cost and Fee Proposal will neither be adjectivally rated nor point scored but will be considered in the overall evaluation of proposals in determining the best value to the Government.

The Cost and Fee Proposal will be evaluated for cost realism and price reasonableness using one or more of the techniques defined in FAR 15.404 and FAR 15.402(a). Price reasonableness will be performed on the proposed Contract Transition price and the total evaluated price. A cost realism analysis will be performed on the Offeror's proposed key personnel / management direct labor costs, DOE-provided direct labor costs, DOE-provided Other Direct Costs (materials, travel, and supplies) and proposed indirect costs (i.e., fringe benefits, overhead, and G&A) to ensure the proposed cost elements are realistic for the work to be performed.

For purposes of determining best value, the Government will calculate a total evaluated price by combining: (1) the Contract Transition price (CLIN 00001); (2) the most probable cost for CLINs 00002 through 00042; and (3) the total proposed fixed fee. The total evaluated price will be used in the best value analysis for purposes of selecting an Offeror for award of a contract.

DOE will also evaluate the proposed key personnel compensation based on each proposed individual's qualifications and position description which may significantly differ from the compensation cap established by Section 702 of the Bipartisan Budget Act of 2013.

DOE will also review information to assist in the determination of responsibility in accordance with FAR Part 9.

The Offeror has the responsibility to fully document its cost and fee proposal and provide traceability and consistency. DOE may adjust an Offeror's proposed cost as part of its cost realism analysis if the Offeror does not adequately provide documentation and traceability.

DOE will compare the total evaluated price to both the total anticipated contract funding and the anticipated funding by Government Fiscal Year. Because the funding is subject to change based on actual appropriation and actual award date of the contract, DOE may make an award to an Offeror whose proposed price differs from the funding profile provided in Section B. Offerors may propose to carry funds over from one year to the next. However, a total proposed price that significantly exceeds the funding profile as set forth in Section B, either by a contract period or total contract basis, may be considered unreasonable and therefore unacceptable for award.

**M.6 DOE-M-2011 Relative Importance of Evaluation Factors (Oct 2015)**

- (a) The relative importance of the evaluation factors for the Technical and Management Proposal (Volume II) are below.
  - (1) Staffing and Contract Transition Approach;
  - (2) Key Personnel; and
  - (3) Past Performance.

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Staffing and Contract Transition Approach is more important than Key Personnel. Key Personnel is more important than Past Performance.

- (b) The evaluation factors for the Technical and Management Proposal (Volume II), when combined, are significantly more important than the total evaluated price (Volume III). Each evaluation factor applicable to this solicitation is identified and described in this and other provisions of this Section M. The descriptive elements of each evaluation factor will be considered collectively in arriving at the evaluated rating of the Offeror's proposal for that evaluation factor. Areas within an evaluation factor are not sub-factors and will not be individually rated, but will be considered in the overall evaluation for that particular evaluation factor.

**M.7 DOE-M-2012 Basis for Award (Oct 2015)**

The Government intends to award one contract to the responsible Offeror whose proposal is determined to be the best value to the Government. Selection of the best value to the Government will be achieved through a process of evaluating each Offeror's proposal against the evaluation factors described above. The evaluation factors for the Technical and Management Proposal will be adjectivally rated. The Cost/Price evaluation factor will not be rated, however the evaluated price will be used in determining the "best value" to the Government. The Government is more concerned with obtaining a superior Technical and Management Proposal than making an award at the lowest evaluated price. However, the Government will not make an award at a price premium it considers disproportionate to the benefits associated with the evaluated superiority of one Offeror's Technical and Management Proposal over another. Thus, to the extent that Offerors' Technical and Management Proposals are evaluated as close or similar in merit, the evaluated price is more likely to be a determining factor in selection for award.