

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION M

EVALUATION FACTORS FOR AWARD

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M.1 DOE-M-2001 Proposal Evaluation - General (OCT 2015) - Alternate II (OCT 2015)

(a) Conduct of acquisition.

- (1) This acquisition will be conducted pursuant to the Federal Acquisition Regulation (FAR), Part 15, Contracting by Negotiation; Department of Energy Acquisition Regulation (DEAR), Part 915, 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 by assessing the significant strengths, strengths, significant weaknesses, weaknesses, deficiencies, and price and performance risks of each offeror's proposal 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 for contract award an offeror 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 a proposal.

- (1) A deficiency, as defined at FAR 15.001, 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 complete evaluation if the proposal fails to conform to a material aspect of the solicitation. A proposal will be deemed unacceptable if it does not represent a reasonable initial effort to address itself to the essential requirements of the solicitation, or if it clearly demonstrates that the offeror does not understand the requirements of the solicitation. Cursory responses or responses which merely repeat or reformulate the Statement of Work will not be considered responsive to the requirements of the solicitation. In the event that a proposal is rejected, a notice will 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, Responsible Prospective Contractors, the

Contracting Officer is required to make an affirmative determination of whether a prospective contractor is responsible. The Contracting Officer may, if necessary, conduct a preaward 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 Contracting Officer shall make a determination of nonresponsibility 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 Part 19.6, Certificates of Competency and Determinations of Responsibility.

(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 price and technical standpoint. The Government, however, reserves the right to conduct discussions if the Contracting Officer 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 instant contract. No award will be made to the apparent successful offeror, if the Contracting Officer determines that a conflict of interest exists that cannot be avoided, neutralized, or mitigated.

M.2 DOE-M-2002 Evaluation Factor – Technical Approach (OCT 2015)

(a) DOE will evaluate the comprehensiveness and feasibility of the offeror's general work execution approach for the construction of the OF200 MTF in the following areas:

- Project management/mobilization
- Procurement
- Excavation and site work, with particular emphasis on
 - Excavation/shoring approach
 - Water control approach
 - Waste management planning and disposition
 - Radiological protection approach
- Facility construction, with particular emphasis on
 - Hoisting and rigging approach
 - Construction of the intake diversion and effluent discharge structures
- System Acceptance Testing

- Finishing and demobilization
- (b) DOE will evaluate the offeror's approach for establishing and maintaining a Worker Safety and Health Program (WSHP) and an Integrated Safety Management System (ISMS).
- (c) DOE will evaluate the offeror's approach to implementing and executing a quality assurance program and its approach to quality control.
- (d) DOE will evaluate the offeror's proposed project schedule to complete construction of the Outfall 200 Mercury Treatment Facility. The schedule will be evaluated with respect to its achievability, comprehensiveness, including the extent that it identifies key interface points and associated risks and the offeror's approach to overcome or mitigate them.
- (e) DOE will evaluate the degree to which the offeror's proposed organizational structure will effectively contribute to the successful management and execution of the work in accordance with its proposed technical approach.
- (f) DOE will evaluate the offeror's approach to meet the requirement to subcontract at least 40%, but no more than 70% of the Total Contract Value in a timely and effective manner. In addition, DOE will evaluate the offeror's process to identify meaningful work scope (as defined in Section H clause, Subcontracted Work) that can be performed by small business subcontractors. DOE will evaluate the offeror's subcontracting approach, including its decision process regarding use of subcontractors, and approach for managing subcontractors.
- (g) DOE will evaluate the offeror's proposed staffing level and utilization of heavy construction equipment during the performance of the contract to successfully execute the Statement of Work.

M.3 DOE-M-2003 Evaluation Factor – Key Personnel (OCT 2015)

- (a) The DOE will evaluate the offeror's proposed personnel to occupy the key personnel positions of Project Manager and Construction Manager. 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. The individuals will be evaluated on:
- (1) Their education, training, certifications, licenses, and demonstrated experience in performing work similar to that described in the SOW and commensurate with the proposed position.
 - (2) Their relevant performance of past work, including leadership and other

accomplishments, as demonstrated through the résumé information and reference checks. DOE may contact references of key personnel and previous employers to verify the accuracy of the information contained in the résumé and to further assess the qualifications and suitability of proposed key personnel. DOE may also consider information received from other sources in its evaluation of key personnel.

- (3) Oral Interview – Project Manager. Along with consideration of the offeror’s written submission, the DOE will also conduct an oral interview of the Project Manager as part of its evaluation of the individual’s qualifications and suitability for the proposed position. The evaluation of the Project Manager’s interview will consider the individual’s understanding of the work scope/mission, including challenges and problems associated with his/her position; ability to offer effective solutions to problems; ability to effectively communicate; and leadership.
- (b) Failure of the offeror to propose the two designated key personnel positions, or failure to provide a letter of commitment for each key person, may adversely affect the Government’s evaluation of the proposal and may make the proposal ineligible for award.

M.4 RESERVED

M.5 DOE-M-2008 Evaluation Factor – Past Performance (OCT 2015)

- (a) Offeror past performance. The offeror will be evaluated on the recency, relevancy, and favorability of the past performance obtained for the offeror performing work similar in scope, size, and complexity to the requirements of the SOW, to assess the offeror’s potential success in performing the work required by the contract. Similar scope, size, and complexity are defined as follows: scope – type of work (e.g., work as identified in the SOW); size – dollar value (including total value and approximate average annual value) and contract period of performance; and complexity – performance challenges (e.g., working with Federal, State, and other regulatory bodies and stakeholder groups, rigorous safety and quality requirements, deep excavations in karst geology, installation of drilled concrete piers in karst geology, and field erection of water storage tanks in congested footprints). The recency and relevancy of the information, source of the information, context of the data, and general trends in contractor performance will be considered in the evaluation. DOE will evaluate past performance information for contracts that are currently being performed and/or for contracts that were completed within the last five years from the original solicitation issuance date. The higher the degree of relevance of the work described to the SOW, the greater the consideration that may be given. Additionally, more recent relevant past performance information may also be given greater consideration. All members of a Contractor Team Arrangement on a past performance contract will be evaluated the same as its partner(s) (therefore the

Government will not apportion past performance differently amongst the partners), as each entity is considered to be responsible for overall performance of the on-going or prior contract. All partner companies on previously performed contracts will be equally credited (positively and/or negatively).

- (b) Major Subcontractor past performance. The offeror's proposed major subcontractor, as defined in Section L.13(a), will be evaluated on the recency, relevancy, and favorability of the past performance information obtained for the major subcontract performing work similar in scope, size, and complexity to that proposed to be performed by that major subcontractor.
- (c) Newly formed entity and predecessor companies. If the offeror is a newly formed entity with no record of relevant past performance, the evaluation of past performance will be based on the past performance of its parent organization(s) or, if applicable, the member organizations composing the Contractor Team Arrangement.

Past performance information resulting from mergers and acquisitions and/or predecessor companies may also be considered, whether or not the offeror is a newly formed entity. Additionally, past performance information of a parent or affiliated company may be considered provided the offeror's proposal demonstrates that the resources of the parent or affiliated company will be provided or relied upon in order to affect the performance of the offeror.

- (d) Work Performance Matrix. Failure of the offeror to provide consistency between the completed Attachment L-2, *Past Performance Reference Information Forms*, and the completed Attachment L-7, *Work Performance Matrix*, may adversely affect the Government's evaluation of the proposal. DOE will evaluate the offeror (including all members of a Contractor Team Arrangement), in accordance with the work each is proposed to perform and the entire SOW, as the offeror will be responsible for performance of the entire SOW. Major subcontractors will be evaluated in relation to the work they are proposed to perform.
- (e) No record of past performance. If the offeror (including all members of a Contractor Team Arrangement) or major subcontractor(s) do not have a record of relevant past performance or if information is not available, the offeror (including all members of a Contractor Team Arrangement) or major subcontractor(s) will be evaluated neither favorably nor unfavorably.
- (f) Sources of past performance information/close at hand information. The Government will consider past performance information provided by the offeror. The Government may contact any or all of the references provided by the offeror and will consider such information obtained in its evaluation. The Government may also 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 Past Performance Retrieval System (PPIRS), and may also consider close at hand information. The Government will only

- evaluate past performance information for work it considers at least somewhat relevant to the acquisition in terms of similar in scope, size, and complexity, as defined above in paragraph (a), and within the timeframe specified above in paragraph (a).
- (g) Performance information. The Government will evaluate any challenges and problems encountered during performance of the provided reference contracts, the actions taken to address those matters, and the effect actions had on the performance of the contract. In addition, any recognized accomplishments received on the reference contracts will be considered. The Government will also evaluate the 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 (EA) website (<https://energy.gov/ea/information-center/enforcement-infocenter>) and corrective actions taken to resolve those problems.
- (h) Terminated contracts. Contracts of the offeror (including all members of a Contractor Team Arrangement) and major subcontractors that were terminated, including the reasons therefore, over the preceding five years from the original solicitation issuance date will be considered in the evaluation. The Government will only evaluate past performance information on terminated contracts determined to be at least somewhat relevant to the acquisition in terms of similar in scope, size, and complexity, as defined above in paragraph (a).
- (i) List of DOE contracts. The Government will consider the information provided per Attachment L-6, *List of DOE Contracts*, of all DOE prime contracts (including NNSA) currently being performed and/or for contracts that were completed within the last five years from the original solicitation issuance date. The Government will only evaluate past performance information on work similar in scope, size, and complexity, as defined above in paragraph (a).

M.6 Evaluation Factor – Price

- (a) The offeror's price proposal will not be point scored or adjectivally rated, but will be evaluated in accordance with FAR 15.404-1 to determine whether the prices are fair and reasonable.
- (b) The price evaluation will consider the proposed prices by CLIN and the offeror's "total evaluated price", which will be calculated as the arithmetic sum of the offeror's Firm-Fixed-Price for all CLINs and SubCLINs listed in Section B.1 CLIN Pricing Table.

- (c) The Government may determine an offer is unacceptable if offered prices are unreasonable, significantly unbalanced, or if the price proposal is incomplete.
- (d) The Government does not intend to conduct a realism analysis of the offeror's proposed price; however, the Government reserves the right to conduct a realism analysis of the offeror's proposed price utilizing the techniques consistent with FAR 15.404-1. If the Government determines it is necessary to conduct such an analysis, the analysis may be utilized to determine whether the offeror can realistically perform its technical solution at the fixed price proposed in order to assess the risk inherent in its proposed approach; whether the proposed price is so low that it reflects a lack of understanding of the requirements; and/or whether the offeror's proposed price is so low that it creates a risk that the firm cannot perform its proposed technical solution at the price offered. Additionally, if the Government conducts a realism analysis and concludes the offered price to be unrealistic, the Government may determine the offer is unacceptable.
- (e) DOE will compare the total evaluated price to both the total anticipated contract funding and the anticipated funding by Government Fiscal Year. Because funding is subject to change based on actual appropriations and actual award date of the contract, DOE may make an award to an offeror whose total evaluated price differs from the anticipated funding profile provided in Section L. However, an evaluated price that significantly exceeds the funding profile as set forth in Section L, either by Government Fiscal Year or total contract basis, may be considered unacceptable for award.
- (f) Proposal information contained in Volume III - Price Proposal may be considered as part of the evaluation of Volume II - Technical and Management Proposal in order for the DOE to verify work proposed to be performed by major subcontractors and to verify compliance with Section H clause *Subcontracted Work* and Section I clause FAR 52.236-1 *Performance of Work by the Contractor*. Any proposal where the offeror performs less than 30% or greater than 60% of the Total Contract Price may be considered unacceptable for award.

M.7 DOE-M-2011 Relative Importance of Evaluation Factors (OCT 2015)

- (a) The relative importance of the evaluation factors for the Technical and Management Proposal are as follows:
 - (1) Technical Approach
 - (2) Key Personnel

(3) Past Performance

Technical Approach is significantly more important than Key Personnel. Key Personnel is more important than Past Performance. Past Performance is the least important factor.

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.

- (b) The evaluation factors for the Technical and Management Proposal, when combined, are significantly more important than the total evaluated price.

M.8 DOE-M-2012 Basis for Award (OCT 2015) (Revised)

The Government intends to award one contract to the responsible offeror whose proposal is determined to be the best value to the Government; however, as stated in M.1(a)(3), the Government reserves the right to make no award, if considered to be in the Government's best interest to do so. 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 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. Thus, in determining the best value to the Government, the Technical and Management Proposal evaluation factors, when combined, are significantly more important than the 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.