

**PART IV – REPRESENTATIONS AND INSTRUCTIONS**

**SECTION M  
EVALUATION FACTORS FOR AWARD**

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## **SECTION M – EVALUATION FACTORS FOR AWARD**

### **M-1 FAR 52.217-5 EVALUATION OF OPTIONS (JUL 1990)**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by summing the total derived fee amounts, based on the proposed fee rates applied to the forecasted annual fee bases, for all options to the derived evaluated fee (see, M-5) for the basic requirement and the baselined not-to-exceed price for transition. Evaluation of options will not obligate the Government to exercise the option(s).

### **M-2 EVALUATION OF PROPOSALS**

- (a) This acquisition will be conducted pursuant to the Federal Acquisition Regulation (FAR) Part 15, Department of Energy Acquisition Regulation (DEAR) Part 915, and the provisions of this solicitation.
- (b) 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 evaluation factors in this Section M to determine the Offeror's ability to perform the contract. The Source Selection Authority (SSA) will select an Offeror for contract award using the best value analysis described in this Section M.
- (c) The instructions set forth in Section L are designed to provide requirements and guidance to the Offeror concerning documentation that will be evaluated by the Government. The Offeror must furnish comprehensive and specific information in its response. A proposal will be eliminated from further consideration before the initial ratings if the proposal is so grossly and obviously deficient as to be unacceptable on its face. For example, a proposal will be deemed unacceptable if it does not represent a reasonable initial effort to address the essential requirements of the solicitation, or if it clearly demonstrates that the Offeror does not understand the requirements of the solicitation. An overall rating of "Less Than Satisfactory" in one evaluation criterion may also result in elimination of the proposal from further consideration regardless of the ratings of the other criteria. In the event a proposal is rejected, a notice will be sent to the Offeror stating the reason(s) the proposal will not be considered for further evaluation under this solicitation.
- (d) The Government intends to evaluate proposals and award a contract without discussions with Offerors, except clarifications as described in FAR 15.306(a). If the Government requires clarifications or revisions to an Organizational Conflict Of Interest Disclosure, including any mitigation plan, (paragraph (e) below) these will be considered to be clarifications rather than discussions in accordance with FAR 15.306(a). The Government reserves the right to conduct discussions if the Contracting Officer later determines discussions to be necessary. Any exceptions or deviations by the Offeror to the terms and conditions stated in this solicitation for inclusion in the resulting contract may make the offer unacceptable for award without discussions. If an Offeror proposes exceptions to the

terms and conditions of the Contract, the Government may make an award without discussions to another Offeror that did not take exception to the terms and conditions of the Contract.

- (e) Prior to selection for award by the SSA, the Contracting Officer will make a determination as to whether any likely, foreseeable Organizational Conflict of Interest (OCI) exists with respect to the apparent successful Offeror. In making this determination, the Contracting Officer will consider the Offeror's representation and disclosure statement required by DEAR 952.209-8, *Organizational Conflicts Of Interest Disclosure-Advisory and Assistance Services*, and, if appropriate, information from other sources. The Offeror should note that DEAR 952.209-8 requires that the Offeror provide enough information in its statement to allow a meaningful evaluation by the Government of the potential effect of the interest on the performance of the Statement of Work. The Government will award the contract to the apparent successful offeror unless the Government determines that an OCI exists that cannot be avoided or mitigated. However, the Government may elect to award the contract notwithstanding an OCI if the Government finds the award is in the best interest of the United States and a waiver is approved in accordance with FAR 9.503.
- (f) Federal Law prohibits the award of a contract under a national security program to a company owned by an entity controlled by a foreign government unless the Secretary of Energy grants a waiver. In making this determination, the Government will consider the Offeror's certification required by the contract's Section K provision, *Certificate Pertaining to Foreign Interests*.
- (g) A Performance Guarantee Agreement in accordance with the requirements of the Solicitation's Section L provision L-6, *Requirement for Guarantee of Performance (Dec 2000)*, will be a condition of the award of this Contract.

### **M-3 BASIS FOR CONTRACT AWARD**

The Government intends to award one contract to the responsible Offeror whose proposal is responsive to the solicitation and 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 criteria described below. The Technical and Management Criteria in M-4 will be adjectivally rated. The Cost Criterion in M-5 will not be adjectivally rated, but will be used in determining the best-value to the Government. In determining the best value to the Government, the Technical and Management Criteria, when combined, are significantly more important than the Cost Criterion. Nevertheless, price is considered a substantial factor in source selection consistent with FAR Part 15.403-1(c)(1). The Government is more concerned with obtaining a superior Technical and Management proposal than making an award at the lowest evaluated cost/price. However, the Government will not make an award at a cost/price premium it considers disproportionate to the benefits associated with the evaluated superiority of one 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 cost/price is more likely to be a determining factor.

## **M-4 TECHNICAL AND MANAGEMENT CRITERIA**

Criterion 1 is more important than either Criterion 2 or Criterion 3. Criterion 2 and 3 are equally important, and each is significantly more important than Criterion 4. The individual items or evaluation considerations *within* a Technical and Management Criterion are not listed in order of importance and will not be individually weighted, but rather will be considered as a whole in developing an overall adjectival rating for each criterion. These individual items or evaluation considerations are not "sub-factors" as described in FAR 15.304.

### **(a) Criterion 1: TECHNICAL APPROACH**

The Government will evaluate and assess the degree to which the offeror's proposed Technical Approach is likely to lead to successful contract performance, using the information provided by the Offeror in response to Section L, L-10(a), Criterion 1, Technical Approach.

### **(b) Criterion 2: KEY PERSONNEL TEAM AND ORAL PRESENTATION**

The Government will evaluate the Offeror's Key Personnel Team information, Key Personnel resumes, and oral presentation to consider the extent to which the Offeror demonstrates:

1. An effective structure that allows the Key Personnel Team to work together to successfully lead the Offeror's organization in executing the Statement of Work;
2. Each Key Person's experience in leading and/or managing work of similar complexity to the position proposed; and
3. Its understanding of the technical/managerial challenges created by each problem/scenario during the Oral Presentation and Key Personnel's ability to provide a quality response to each problem/scenario.

In addition to the references provided in the Key Personnel resumes (see Section L-10(b)), the Government may use any information received from other sources, and references or third parties as part of its evaluation of Key Personnel. However, the Government is under no obligation to obtain additional information and may do so at its sole discretion. Failure to submit the required letters of commitment may result in the Key Person not being evaluated, negatively affecting the evaluation results for this criterion.

### **(c) Criterion 3: PAST PERFORMANCE**

The Government will evaluate the Offeror's recent, relevant past performance to determine the extent to which it demonstrates the Offeror's ability to successfully perform the Statement of Work (SOW). Past performance that is not both recent and relevant (as those terms are defined in (i) and (ii) below) will not be considered. To the extent it is recent *and* relevant, the Government will consider past performance information submitted by the Offeror (*e.g.*, Past Performance Information Forms and related records, such as performance assessments, small business achievements; and list of terminated contracts), Past Performance Questionnaires, as well as past performance information that the Government obtains from other sources. The

contracts reviewed for Past Performance will include all recent and relevant contracts submitted by Offerors along with recent and relevant NNSA contracts that can be attributed to any Offeror Team Member with a proposed work scope greater than \$50 million over the Base Period. The evaluation may also consider the source of the information, context of the data, and general trends in the contractor's performance, including how problems identified were corrected. The Government will not apportion past performance under a DOE, NNSA, or other contract differently among parent companies that teamed or formed a joint entity for the purposes of said contract. Rather, all parent companies under a contract will be equally credited (positively and negatively) for past performance for that contract. In the case of an Offeror without a meaningful record of relevant past performance or for whom information on relevant past performance is not available, the Offeror will be evaluated neither favorably nor unfavorably in this criterion and will be assigned a neutral rating.

- (i) Recent Past Performance. In order to be considered recent, a contract or subcontract must have at least nine months of performance within the five years preceding the RFP release date. To the extent that performance evaluations are divisible, the Government will only evaluate performance that occurred within the five-year period preceding the RFP release date.
- (ii) Relevant Past Performance. Relevant past performance is performance that is similar in size, scope and complexity to the requirements in the Statement of Work. Where an Offeror has proposed a Team Member to perform only specific sections of the SOW, the relevance of that Team Member's past performance contracts will be determined based on consideration of the specific sections of the SOW the Team Member is proposed to perform, as opposed to the entire SOW. However, as the Offeror and each of the Team Members that make up the Offeror (not Subcontractor Team Members) are responsible for performance of the entire SOW, NNSA may consider, as appropriate, past performance that may not correlate with a Team Member's proposed role under this solicitation if the past performance is relevant to the SOW. With respect to tasks within the Statement of Work for which only the incumbent contractor would have direct past performance, the Government will evaluate the relevance of analogous past performance such as: (i) work on similarly complex systems, organizations, and operations; (ii) work related to managing exacting production and assembly operations; (iii) work relating to nuclear weapons and/or nonproliferation/counterproliferation of nuclear, radiological, chemical, or biological weapons and related programs; (iv) work relating to safe operations and/or safeguards and security programs involving high hazard nuclear materials or other high hazard materials; and (v) work relating to Capital Asset Projects, Line Item Projects including Military Construction, Major Items of Equipment, and transitioning capital asset construction projects to full operations.

#### **(d) Criterion 4: SMALL BUSINESS PARTICIPATION**

The Government will evaluate the extent to which the Offeror's approach to utilize small business concerns is likely to result in an effective and meaningful use of small businesses in performance of the work scope and the extent of small business concern participation, including veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns in performance of the contract. As part of this evaluation, the Government will evaluate the extent that small businesses are proposed to be used in terms of total planned subcontracted dollars and percentages, and as a percentage of total contract value, **in comparison to the average of the last two full fiscal years' (FY2021 – 2022) small business socioeconomic accomplishments. Offerors that do not propose small business subcontracting goals that are at least commensurate with the average site accomplishments may be adversely rated under this criterion.** Evaluation of this criterion is separate and distinct from the small business subcontracting plan or small business past performance assessments. However, if the information in the Offeror's narrative or Section L - Attachment J, contradicts the Offeror's Small Business Subcontracting Plan referenced in Section L-9(e), it may negatively affect the rating of the Offeror under this criterion.

#### **M-5 COST CRITERION**

The total evaluated price proposed in accordance with Section L, Attachment H, of this solicitation will not be rated, but will be used in determining the best value to the Government. The total evaluated price includes the Government's baselined not-to-exceed Transition Price, the derived fee amounts for the Management and Operation of Pantex (all contract periods including options), and the derived fee amounts for the Strategic Partnership Projects (all contract periods including options). The derived fee represents the proposed fee rates applied to the forecasted annual fee bases. The Government may use any of the price analysis techniques specified in FAR 15.404-1(b) to determine reasonableness. In accordance with FAR Part 15.404-1(g), the Government will analyze the proposed line items, which includes CLINs 0001, 0002, and 0003, and annual pricing for balance and may reject an offer if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

CLIN 0004 (Capital Construction Projects) will not be evaluated prior to award of the contract. Rather, the Government will separately select individual Capital Construction Projects for inclusion under this CLIN, and negotiate the associated scope, cost/price, and fee (if applicable), based on project risk and complexity subject to the limitations of 48 CFR 915.404-4-71, after award of the Contract resulting from this solicitation.