

Effective 3/28/2016

63G-6a-707.5 Best and final offers.

- (1) At any time during the evaluation process, the evaluation committee, with the approval of the director or the head of the issuing procurement unit, may:
 - (a) request best and final offers from responsible offerors who have submitted responsive proposals that meet the minimum qualifications, evaluation criteria, or applicable score thresholds identified in the request for proposals, if:
 - (i) no single proposal addresses all the specifications stated in the request for proposals;
 - (ii) all or a significant number of the proposals are ambiguous on a material point and the evaluation committee requires further clarification in order to conduct a fair evaluation of proposals;
 - (iii) the evaluation committee needs additional information from all offerors to complete the evaluation of proposals;
 - (iv) the differences between proposals in one or more material aspects are too slight to allow the evaluation committee to distinguish between proposals;
 - (v) all cost proposals are too high or over budget; or
 - (vi) another reason exists supporting a request for best and final offers, as provided in rules established by the applicable rulemaking authority; and
 - (b) evaluate those best and final offers.
- (2) In requesting and evaluating best and final offers under Subsection (1), the evaluation committee shall:
 - (a) ensure that each offeror receives fair and equal treatment with respect to the other offerors;
 - (b) establish a schedule and procedures for conducting discussions;
 - (c) ensure that information in each proposal and information gathered during discussions is not shared with other offerors until the contract is awarded;
 - (d) ensure that auction tactics are not used in the discussion process, including discussing and comparing the costs and features of other proposals; and
 - (e) set a common date and time for the submission of best and final offers.
- (3) In a best and final offer, an offeror:
 - (a) may address only the issues described in the request for best and final offers; and
 - (b) may not correct a material error or deficiency in the offeror's proposal or address any other issue not described in the request for best and final offers.
- (4) If an offeror chooses not to participate in a discussion or does not make a timely best and final offer, the offer submitted by the offeror before the conduct of discussions shall be treated as the offeror's best and final offer.
- (5) An applicable rulemaking authority shall make rules governing best and final offers under this section.

Amended by Chapter 355, 2016 General Session