Current Practices with Low Price Technically Acceptable (LPTA) Contracts

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Lowest Price Technically Acceptable (LPTA) Source Selection

Navy’s desire: Lowest price that meets the Government’s minimum need

Renee Comfort
Chief Contracting Officer
LPTA – Applicable References

• Federal Acquisition Regulations (FAR) Part 15.101-2

• Office of the Under Secretary of Defense Memorandum, Department of Defense Source Selection Procedures, 04 Mar 2011

• Office of the Under Secretary of Defense Memorandum, Better Buying Power 2.0: Continuing the Pursuit for Greater Efficiency and Productivity in Defense Spending, 13 Nov 2012

• NAVFAC Capital Improvements Business Line LPTA Factors/Guidelines dated 23 April 2014

• Naval Facilities Acquisition Supplement (NFAS) Part 15.101-2
LPTA – Source Selection Process – FAR 15.101-2

• Appropriate when best value is expected to result from selection of a technically acceptable proposal with the lowest evaluated price

• Evaluation factors and significant subfactors shall be set forth in the solicitation

• Past performance shall be evaluated in all source selections for negotiated competitive acquisitions expected to exceed the simplified acquisition threshold (SAT), or >$150K

• Tradeoffs are not permitted

• Proposals are evaluated for acceptability but not ranked using the non-cost/price factors

• Exchanges may occur
LPTA – Standard Evaluation Factors

• Corporate Experience - minimum of *(insert number)* and a maximum of five (5) construction projects for the Offeror that best demonstrate its experience on relevant projects that are similar in size, scope, and complexity to the RFP

• Management and Technical Approach – composition and management of primary firms proposing on project to include roles, responsibilities, and contractual relationships

• Safety – OSHA Total Recordable Case (TRC) and OSHA Days Away from Work, Restricted Duty, or Job Transfer (DART) rates

• Past Performance – utilize current and relevant information from any and all sources, to include Past Performance Information Retrieval System (PPIRS), Federal Awardee Performance and Integrity Information System (FAPIIS), and Electronic Subcontract Reporting System (eSRS)
LPTA – Rules of Thumb

- Do not use LPTA for Stand-Alone Two-Phase Design Build (DB) Construction Projects
- Do not use LPTA for basic Multiple Award Construction Contracts (MACCs)

- Determine complexity of the project

- Consider LPTA for Design Bid Build (DBB) procurements that are NOT considered “specialized” such as hospitals, explosive test facilities, etc., and for DB procurements with high level of prescriptive requirements such as Child Development Center (CDC) where the Unified Format Code (UFC) dictates majority of design
To obtain the benefits and mitigate risk, Government needs to look at ways to achieve optimal results:

– Clearly define the work requirement

– Use with non-complex work requirements

– Precisely define technical and past performance requirements and detailed technical criteria. Always consider past performance

– In other words, specifically prescribe levels of acceptability when preparing technical factor requirements
• Contractors may look for ways to: decrease quality to maintain a reasonable profit; look for additional time; and refuse to negotiate or sign bilateral modifications

• Stifles innovation, enhancements, flexibility, etc.

• Continuous improvement is impossible

• Companies can’t bring their best talent or capability

• Affords no opportunity to deliver value-added approaches or solutions
LPTA – History Paints a Positive Picture

• Modifications –
  – No identifiable increase due to LPTA
  – Not related to the selection process

• RFIs –
  – No identifiable increase due to LPTA
  – Not related to the selection process
LPTA-MACC TASK ORDER PROCESS

RFP/Receive Proposals → CS/KO evaluates offeror’s prices → First three (3) lowest priced proposals move to Technical Evaluation Team (TET) → TET evaluates for technical acceptability
- Factor 1: Past Performance
- Factor 2: (Optional) Project specific requirements

Are proposals technically acceptable?

Process goes back and is repeated until technically acceptable proposal is identified

TET writes the evaluation report

TOEA reviews evaluation results

Yes → TET writes the evaluation report

No → Are proposals technically acceptable?

Discussions entered

TOEA shall select the source whose proposal offers the best value to the Government in accordance with established criteria in Section M or equivalent solicitation provision

TOEA documents supporting rationale in the decision document. The decision document reflects the TOEA’s independent, integrated, comparative assessment and decision

Award to lowest price technically acceptable offeror

Discussions entered

Approved

No Discussions Award Approved
LPTA – STAND ALONE PROCESS

RFP/Receive Proposals → CS/KO evaluates offeror’s prices → First three (3) lowest priced proposals move to Source Selection Evaluation Board (SSEB)

Process goes back and is repeated until technically acceptable proposal is identified.

Are proposals technically acceptable?

Yes → SSEB writes the evaluation report → Award to lowest price technically acceptable offeror

No → SSA documents supporting rationale in the source selection decision document (SSDD). The SSDD reflects the SSA’s independent, integrated, comparative assessment and decision

SSA documents supporting rationale in the source selection decision document (SSDD). The SSDD reflects the SSA’s independent, integrated, comparative assessment and decision

SSA shall select the source whose proposal offers the best value to the Government in accordance with established criteria in Section M or equivalent solicitation provision

Source Selection Authority (SSA) reviews evaluation results

SSEB evaluates for technical acceptability
• Factor 1 - Experience
• Factor 2 - Safety
• Factor 3 - Past Performance
• Factor 4 - (optional) Project specific requirements

Discussions entered

No Discussions Award Approved
LPTA – Proposal Submission Tips and Tricks

• Read the solicitation carefully before responding and submit complete proposals
  – Understand the contract terms, not just the technical requirements.
  – Understand the corresponding basis of evaluation.
• Verify accuracy of SAM and VETS-100 registrations
• Make sure insurance information is up-to-date (EMR and DART) for prime and all subs – submit that rate
• Sign and return all solicitation amendments
• Ask questions
• Do not provide company brochures
• Number proposal pages consecutively
• Do not copy and paste from a prior proposal
• Clearly label and separate/tab each factor in your proposal
• Address every element within each factor
• Create a checklist
• Submit your “best offer” with your initial submission!
• Focus more keenly on procurement efforts and strategy
• Establish a competitive, yet realistic price, for a solution that satisfies non-cost factors enough to be deemed acceptable (minimum requirements)
LPTA - Sources

• FED Connects, LPTA Contracts: Acceptable is the Antithesis of Innovative, November 1, 2012, Monica Mayk Parham

• Information Week, LPTA Contracts Stifle Government Innovation, October 25, 2013, William Welsh

• Washington Technology, Is the Government Starting to Hate LPTA too?, June 7, 2013, Bob Lohfield

• Public Contracting Institute, LPTA Source Selection: Use Remains High and Demands Careful Attention to Section M and Proposal Strategy, November 12, 2012, Kimberly Heifetz
LPTA - Questions
Current Practices with Low Price Technically Acceptable (LPTA)

22 May 2014

Richard A. Marsh, Lt Col, USAF
Commander, 772 ESS
LPTA process typically used when:

- “Best Value” is expected from lowest-priced, technically acceptable proposal
- Procuring commercial, non-complex requirements
- Requirements are firm, clear and definitive
- No benefit is expected from proposals exceeding minimum technical or performance requirements
When using LPTA:

- Proposals evaluated against \underline{minimum} technical requirements (Acceptable/Unacceptable)
- Past Performance \underline{may} be an evaluation factor (Acceptable/Unacceptable)
- Tradeoffs are \underline{not} permitted – Reduced flexibility
- Proposals cannot be ranked on non-cost/price factors
- Exchanges may occur
- Comparative Analysis is not required
LPTA Eval Factors

**Technical - Critical to define what constitutes “Acceptable”**
- Clearly state minimum requirements
  - Acceptable: Proposal clearly meets the min rqmts
  - Unacceptable: Proposal does not clearly meet the min rqmts

**Past Performance - Rated “acceptable”/ “unacceptable”**
- May be waived by PCO
- If evaluated, ‘Unknown’ rating is considered acceptable
  - Acceptable: Gov’t has a reasonable expectation that the offeror will successfully perform the required effort, or the offeror’s performance record is unknown.
  - Unacceptable: Gov’t has no reasonable expectation that the offeror will be able to successfully perform

**Price - Every solicitation will provide an adequate description of the cost or price evaluation**

“Acceptable” rating required for all non-price factors/subfactors
Sample Factors & Subfactors

- **Technical Capability**
  - Technical and mgmt approach/capabilities demonstrate the construction approach, risk mgmt, mobilization plan, safety quality control, and resolution of potential issues/challenges
  - Staffing plans demonstrate key personnel, approved teaming partners/subcontractors; key personnel qualifications (yrs and experience)
  - Execution schedule outlines completion w/in required PoP with all critical path items clearly identified

- **Past Performance** - Evaluate contractor provided PPI Worksheets, PPQs, PPIRS in order to assess recency, relevancy, and quality to determine acceptability/unacceptability

- **Price** - Price will not be scored, but evaluated for fairness and reasonableness via cost/price analysis
Methodical process incorporates knowledge from:
- Market Research
- Acquisition planning activities

Evaluation factors:
- Must be critical areas of importance and emphasis
- Identify “key discriminators”

Factors must address:
- Non-cost factors
- Quality of Product or Service
- Price/Cost
Things to Consider

- It all starts with good Market research -- Industry input on what is of benefit beyond the min, and what can be traded is critical.

- Non-cost/price eval factors must clearly describe the minimum requirements that will be used to determine the acceptability of the proposal.

- Minimum technical thresholds need to be increased in order to raise the bar as to what’s “acceptable”
  - In some cases, something less than an a “A” solution will do.

- Evaluation of LPTA typically more straight forward mitigating evaluation complexity and leadtime.

- LPTA should not be used when the contractor’s proposed technical approach requires a subjective judgment.
Decision to utilize Trade-off or LPTA is requirement based – Don’t favor either Source Selection approach
  - Team decision (tech/contracting) during acquisition strategy phase

Prepare proposal to the solicitation standard, but no more

There is no official/informal position on use of LPTA
Sources

- *DoD Source Selection Procedures Guide, 04 Mar 11*
- *SAF/AQC Source Selection Training, Phase I, 01 Nov 12*
- *DoD Better Buying Power 2.0 Directive, 24 Apr 13*
Questions
Contractors Guide to LPTA
CURRENT STATE OF INDUSTRY

• Just coming off **ALL TIME HIGHS** - Global War on Terror, BRAC, ARMY Transformation, Robust MILCON Budgets, Stimulus etc., etc...

• **Federal & Military Construction **NEW LOWS

• **TODAY** - MORE COMPETITION THAN EVER, with LESS WORK TO GO AROUND

• LOW LOW Bids are norm in many sectors

• **Clients are accustomed to new cost data**

• Costs are RISING, Work is Declining
LPTA

• **LET’S PRICE TO ACHIEVE**
  – DETERMINE PRICE BARRIERS/CAPABILITY
    • BEFORE starting the technical write up
  – LPTA IS ALWAYS A PRICE COMPETITION
    • Assume every bidder will be acceptable
    • Price your proposal as if it were an IFB
  – IF YOU CANT BE PRICE COMPETITIVE, IT DOESN’T MATTER THAT YOU ARE TECHNICALLY ACCEPTABLE
HOW TO STAY IN THE GAME

• Pick your Projects Carefully
  – Just Say No to Work That Doesn’t Fit

• Bid Responsibly
  – Too Low = Poor Quality, Safety & Claims

• GET LEAN
  – Is it Within YOUR Core Competency?
  – Do you have the right people? Team?
  – Does it Pencil for Profit?
AND WIN

• **Understand Your True Costs**
  - True Home Office & Field OH Rates
    • How to distinguish
    • What is Your Daily Operating COST?
    • Request a DCAA Audit (With Caution)
  - Labor Burdens
    • Workers Comp Varies by Trade
      – Field Personnel vs. Managers

• **Use Weighted Guidelines**
  - Each mod is different

• **Just In Time Management**