



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 19-06
June 21, 2019

Revision to NASA FAR Supplement 1815 Exception from Certified Cost or Pricing Data Requirements—Adequate Price Competition (NFS Case 2019-N010)

PURPOSE: To revise the NASA FAR Supplement (NFS) to revise the policy concerning evaluation of a single proposal in NFS 1815.305-71.

BACKGROUND: Federal Acquisition Regulation (FAR) 15.403-1(c)(1)(ii) states one of the exceptions from certified cost or pricing data requirements is adequate price competition. One of the factors that must exist in order for there to be adequate price competition is that there was a reasonable expectation, based on market research or other assessment, that two or more responsible offerors, competing independently, would submit priced offers in response to the solicitation's expressed requirement, even though only one offer is received from a responsible offeror.

Currently, NFS 1815.305-71(a) states that if only one proposal is received in response to a competitive solicitation, the contracting officer shall determine if the solicitation was flawed or unduly restrictive and determine if the single proposal is an acceptable proposal. Based on these findings, the Source Selection Authority (SSA) shall direct the contracting officer to one of three courses of action: (1) award without discussions provided the contracting officer determines that adequate price competition exists in accordance with FAR 15.403-1(c)(1)(ii); or (2) award after negotiating an acceptable contract. The requirement for submission of cost or pricing data shall be determined in accordance with FAR 15.403-3(a)(1)(ii); or (3) reject the proposal and cancel the solicitation.

Section 822 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114-328) excludes from the standard for adequate price competition the factor in which there was an expectation of competition, but only one offer is received. The standard of adequate price competition that is based on a reasonable expectation of competition is now applicable only to agencies other than Department of Defense (DOD), NASA, and the Coast Guard.

The DOD, General Services Administration, and NASA have undertaken rulemaking to formally incorporate this change. These rulemaking changes were published in the Federal Register (84 FR 27494) on June 12, 2019, FAC 2019-03, and FAR Case 2017-006, Exception from Certified Cost or Pricing Data Requirements—Adequate Price Competition, effective July 12, 2019.

ACQUISITIONS AFFECTED BY CHANGES: This revised NFS policy is applicable to acquisitions utilizing contracting by negotiation procedures effective July 12, 2019.

ACTION REQUIRED BY CONTRACTING OFFICERS: Ensure compliance with the revised NFS policy.

PROVISION AND CLAUSE CHANGES: None.

PARTS AFFECTED: Part 1815.

PIC or PCD CHANGES: None.

TYPE OF RULE AND PUBLICATION DATE: These changes do not have a significant effect beyond the internal operating procedures of NASA and do not have a significant cost or administrative impact on contractors or offerors, and therefore do not require codification in the Code of Federal Regulations (CFR) or publication for public comment.

HEADQUARTERS CONTACT: Andrew O'Rourke, Headquarters, Office of Procurement, Policy, Training & Pricing Policy Division, 202-358-4560, email: andrew.orourke@nasa.gov.

for **Monica Y. Manning**
Assistant Administrator for Procurement

Enclosure

NFS changes indicated in **[bold text]** for additions or by ~~strike through~~ for deletions. Text unchanged shown as asterisks *** or *****.

**PART 1815
CONTRACTING BY NEGOTIATION**

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Subpart 1815.3—Source Selection

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1815.305-71 Evaluation of a single proposal.

(a) If only one proposal is received in response to the solicitation, the contracting officer shall determine if the solicitation was flawed or unduly restrictive and determine if the single proposal is an acceptable proposal. Based on these findings, the SSA shall direct the contracting officer to one of the following:

~~(1) Award without discussions provided the contracting officer determines that adequate price competition exists (see FAR 15.403-1(e)(1)(ii)); or~~

~~(2)~~ Award after negotiating an acceptable contract. (The requirement for submission of cost or pricing data shall be determined in accordance with FAR 15.403-3(a)(1)(ii); or

~~(3)~~**[2]** Reject the proposal and cancel the solicitation.

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