

Internet at <http://www-far.npr.gov>. All comments received will be posted in the Acquisition Reform Network's FAR Part 15 Rewrite Forum.

DATES: Comments are due on or before January 16, 1996.

ADDRESSES: Send comments to the Part 15 Rewrite Committee Chair, Ms. Melissa Rider, DAR Council, Attn: IMD 3D139, PDUSD(A&T)DP/DAR, 3062 Defense Pentagon, Washington, D.C. 20301-3062.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, telephone (703) 602-0131. FAX (703) 602-0350.

SUPPLEMENTARY INFORMATION: An interagency team has been established to rewrite FAR Part 15. The team members are drawn from the Department of Defense, civilian agencies, and the Office of Federal Procurement Policy. The team chair is Ms. Melissa Rider, with the Department of Defense. The team vice chair is Ms. Frances Sullivan, with the National Aeronautics and Space Agency (NASA).

The team is soliciting comments on recommended changes to Part 15. The following topics have already been raised by the Administrator, Office of Federal Procurement Policy, as potential areas of interest. Comments are requested on these topics, and any other ideas interested parties may offer.

1. *Use of Shall:* In what way do you think Part 15 is overly prescriptive or overly permissive? We would appreciate your comments on this issue.

2(a). *Government-Industry Communications; Draft Solicitations:* The team is considering expanding the use of draft RFPs. We would appreciate your input regarding the positive or negative impacts of using draft RFPs and any other comments you may have on the subject.

2(b). *Government-Industry Communications; Discussions:* Within the confines of applicable law, the team is considering expanding the nature, scope, and timing of discussions held during the course of a procurement. We would appreciate your comments regarding the pros and cons of changing what constitutes discussions.

2(c). *Government-Industry Communications; Oral Presentations:* FAR 15.402(f) provides for oral solicitations in certain circumstances, but makes no provisions for oral circumstances, but makes no provisions for oral presentations. The team is considering adding guidance on the use of oral presentations. The team would appreciate your comments regarding the use of oral presentations, including experiences (good and bad) your organization has had with their use.

3. *Commercial Items:* FAR 15.4, Solicitations and Receipt of Proposals and Quotations, and FAR 15.6, Source Selection, do not apply to acquisitions made using simplified acquisition procedures. We would appreciate your comments regarding whether commercial items should also be exempted from any of Part 15?

4. *Source Selection:* The team would appreciate your comments on how the Part 15 coverage of greatest value contracting can be enhanced.

5(a). *Competitive Range; No Cost Proposal:* Current coverage at FAR 15.609(a) requires the contracting officer to determine the competitive range "on the basis of cost or price and other factors." It has been suggested that it would be better for both the Government and the offeror to determine the competitive range without requiring a cost proposal. The Contracting Officer would still be able to get certain cost information (e.g., labor rates, past performance on cost control, etc.) to help determine which offerors are not in the running based on cost, but would not get a complete cost proposal prior to determining the competitive range. The team solicits your comments on benefits or disadvantages of deleting the requirement to consider cost in making the initial competitive range determination.

5(b). *Competitive Range; When there is doubt:* The team directs your attention to FAR Case number 95-008, which was published as a proposed rule in the Federal Register on November 6, 1995 (60 FR 56035). You may provide comments on the proposed rule, which deletes the statement that a proposal should be included in the competitive range for the purpose of conducting discussions, if there is doubt as to whether the proposal is in the competitive range, through the GSA case manager noted in the proposed rule. The public comment period for the proposed rule ends on January 5, 1996.

5(c). *Competitive Range; Reasonable Chance:* The team solicits your comments on the benefits or disadvantages of changing the standard for inclusion in the competitive range.

5(d). *Competitive Range; Two-phase Acquisitions:* In using a two-phase process, the agency would solicit information in the first phase regarding an offeror's capability to perform the contract. The offeror would not prepare a detailed cost or technical proposal in the first phase. Based on an offeror's capabilities, it would be invited to the second phase wherein the agency would ask for detailed technical proposals and cost information. Several agencies are

already considering similar methods. If you have had experience using similar methods or would like to share your opinions on the topic, we would appreciate your comments.

6(a). *Contract Pricing; Subcontracts:* The current coverage at FAR 15.806-1(d) states that the prices of negotiated subcontractors should "in no instance * * * be accepted as the sole evidence that [such] prices are fair and reasonable." It has been suggested that this language be removed. We would appreciate any comments you want to share on the subject.

6(b). *Contract Pricing; TINA:* If there are additional revisions you believe would further the efforts of the TINA drafting team, please let us know. The team would also like to solicit your opinions regarding the field pricing support coverage at FAR 15.805-5.

7. *Agency supplementation:* The public's views are sought on the extent to which agency supplementation of FAR Part 15, other than internal agency procedures, should be limited.

8. *Evolving (changes to) solicitations on commercial item acquisitions:* Under traditional procurement thinking, contracting officials are expected to have completed intensive needs and product analyses before they initiate the formal competitive procurement process, which requires substantial acquisition leadtimes. The public's views are sought regarding whether and how the FAR provisions for making changes to evaluation factors and contract requirements in the acquisition of commercial items should be modified to ensure that agencies may more efficiently and effectively match their needs with commercially available technologies and products.

9. *Open negotiation techniques:* In the commercial marketplace, competitions may involve techniques in which the buyer releases or otherwise makes available the bid prices of all vendors without revealing competitive secrets (e.g., cost breakdowns, vendor name, etc.). These sorts of auctioning techniques are currently prohibited in the FAR. The public's view are sought on whether such prohibitions can and should be narrowed or eliminated.

10. *Use of source selection standards:* Currently, agencies develop evaluation standards to establish a uniform baseline to determine how well an offeror's proposal satisfies the source selection evaluation criteria. Evaluation criteria and standards can be difficult to determine, particularly with respect to commercial items and in cases where the Government's requirements are stated in terms of performance objectives rather than detailed