

Assignment 2: competition requirements

Law



The Federal Acquisition Regulation system is mandated to oversee the codification and publication of uniform policies and procedures in the process of acquisition by each and every executive agency. The Federal Acquisition Regulation (FAR) is a primary document- which is part of Federal Regulation Systems- and agency acquisition regulations that supplement or implement the Federal acquisition regulation system (Manuel & Library of Congress, 2010). The FAR comprises of a general structure and several subparts. The FAR subpart 15. 3 mainly deals with source selection. This subpart entails the procedures and policies for selection of a source or sources in competitive acquisitions. Specifically, FAR § 15. 303 describes the responsibilities of Agency heads in broader details. Subpart 15. 2 outlines the process of solicitation and receipt of proposals and information. This subpart outlines the procedures and policies for; preparing and issuing request for information (RFIs) and proposals (RFPs), exchanging information with industry prior to receipt of proposal, and receiving information and proposals. According to subpart 15. 2, the exchange of information among all interested parties is encouraged. However, the exchange of information must be in line with the procurement integrity requirements. Information exchange is encouraged so as to improve the understanding of government requirements and industry capabilities. According to subpart 15. 202, the agency is mandated to publish a presolicitation notice that provides a general description of the purpose and scope of the acquisition. In addition, shall evaluate all responses in accordance with the criteria stated in the notice. This will enable the government to advice the offerors about their potential to be viable competitors. The implementation of a uniform contract format influences the preparation of the solicitation and contract in regards

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to contractors, contract administrators and offerors. The importance of subpart 15. 2 is irrefutable. It is the sole provider of solicitation and contract clauses that guide the federal government acquisitions. Subpart 6. 1 deals with full and open competition. The contracting officers are responsible for promoting and providing full and open competition during offer requests and awarding of contracts. However, not all contracts are competitive. As outlined in Parts 14 and 15 of FAR, there are sealed bidding and competitive proposals. Sealed bid is a method of contracting that employs public opening of bids, competitive bids and awards. Competitive proposals are applicable if sealed bids are not appropriate under paragraph (a) of Part 15 (Keyes, 2003). Competition in federal procurement contracting is a topic of public and congressional interest. This is because of the alleged ill-motive behaviors arising in noncompetitive contracts and reports, especially due to the increased actions by the number of noncompetitive contracts. The first vital characteristics of the FAR part 15 process Model states that each and every competitor must submit complete proposals at the outset of the competition. The Competitive in Contracting Act (CICA) of 1984 basically controls competition in federal procurement contracting. Through CICA, contracts must be entered into after “ open and full competition through a proper competition procedure” except in situations that require noncompetitive procedures. The CICA defines the procedures through which federal contracting agencies can obtain full and open competition (United States, 1977). These processes may include sealed bids and competitive proposals. If the federal or individual enter into any contract without full and open competition, then that type of contract is noncompetitive. However, noncompetitive contracts can still comply with the CICA especially where <https://assignbuster.com/assignment-2-competition-requirements/>

circumstances allow exclusion of full and open competition. Some problems associated with full and open competition include: Contracts must be supplemented by written approvals and justifications Abridgments of proposed contract actions must be published, and any other resultant proposals and bids should be considered. There is always competition despite the number of sources solicited. Full and open competition is not required when service or property is available one source and no other type of services or supplies will satisfy the agency's needs. Full and open competition is not a necessity during the process of awarding contracts to particular sources. In FAR Subpart 6. 3, there is a clear guideline for policies and procedures in the federal contracting without the provision for full and open competition. According to Subpart 6. 302 the following factors are responsible for noncompetitive environment: (Keyes, 2003). Only one responsible source and no other supplies or services will satisfy agency requirements (6. 302-1)- The property or services required by the agency are accessible from a single responsible source and no any other type of service or property leads to the satisfaction of the agency's needs. Unusual and compelling urgency (6. 302-2): the FAR need for service or property is such a compelling and unusual urgency that calls for government intervention unless FAR is permitted to have a limited number of sources from which it solicits proposals and bids. Industrial mobilization; engineering, developmental, or research capability; or expert services (6. 302-3): it is of great importance to award the contract to a particular source or sources so as to maintain or establish an important engineering, development and research capability to be provided by an educational or any other non-profit institution. International agreement (6. 302-4) Authorized or required by <https://assignbuster.com/assignment-2-competition-requirements/>

statute (6. 302-5) National security (6. 302-6) Public interest (6. 302-7) The federal government has adopted the use of FAR when purchasing public goods. Existing arrangements governing the source selection process, for example the bid-protest mechanism, efficiently alleviate the consequences of governmental opportunism thereby reducing direct harm that might rise as a result of third-party opportunism. It is important for FAR to conduct step-by-step to achieve a better source selection. The step by step evaluation will requires that every competitor is allowed to submit a complete proposal at the outset of the competition. This will address all the evaluation factors needed to award the contract (Keyes, 2003). Secondly, step by step evaluation will allow the agency to negotiate with more than one firm hence ensuring that the contract is awarded to the appropriate supplier or contract. Step by step mechanism works to minimize the maximum losses resulting from opportunistic behavior in the source selection process (United States, 1977). The significance of these characteristics of step-by-step lies in the effect that they have vital information that must be filled and submitted by the competitor; and that an agency must process in order make a more informed decision regarding source selection. Therefore, step-by-step is not a requirement but a necessity for source selection decision. References Manuel, K., & Library of Congress. (2010). Responsibility determinations under the federal acquisition regulation: Legal standards and procedures. Washington, DC: Congressional Research Service, Library of Congress. Keyes, W. N. (2003). Government contracts under the Federal Acquisition Regulation. St. Paul, MN: Thomson/West. United States. (1977). Code of federal regulations: LSA, list

of CFR sections affected. Washington, D. C.?: National Archives of the United States.