

25.502 Application.

(a) Unless otherwise specified in agency regulations, perform the following steps in the order presented:

(1) Eliminate all *offers* or *offerors* that are unacceptable for reasons other than price; *e.g.*, nonresponsive, debarred or suspended, or a prohibited source (see [subpart 25.7](#)).

(2) Rank the remaining *offers* by price.

(3) If the *solicitation* specifies award on the basis of factors in addition to cost or price, apply the evaluation factors as specified in this section and use the evaluated cost or price in determining the *offer* that represents the *best value* to the Government.

(b) For *acquisitions* covered by the WTO GPA (see [subpart 25.4](#))-

(1) Consider only *offers* of U.S.-made or *designated country end products*, unless no *offers* of such *end products* were received;

(2) If the agency gives the same consideration given *eligible offers* to *offers* of U.S.-made *end products* that are not *domestic end products*, award on the low *offer*. Otherwise, evaluate in accordance with agency procedures; and

(3) If there were no *offers* of U.S.-made or *designated country end products*, make a nonavailability determination (see [25.103\(b\)\(2\)](#)) and award on the low *offer* (see [25.403\(c\)](#)).

(c) For *acquisitions* not covered by the WTO GPA, but subject to the Buy American statute (an FTA or the Israeli Trade Act also *may* apply), the following applies:

(1) If the low *offer* is a *domestic offer* or an *eligible offer* under an FTA or the Israeli Trade Act, award on that *offer*.

(2) If the low *offer* is a *noneligible offer* and there were no *domestic offers* (see [25.103\(b\)\(3\)](#)), award on the low *offer*. The procedures at [25.106\(b\)\(2\)](#) and [25.106\(c\)\(2\)](#) do not apply.

(3) If the low *offer* is a *noneligible offer* and there is an *eligible offer* that is lower than the lowest *domestic offer*, award on the low *offer*. The procedures at [25.106\(b\)\(2\)](#) and [25.106\(c\)\(2\)](#) do not apply.

(4) Otherwise, apply the appropriate evaluation factor provided in [25.106](#) to the low *offer*. The procedures at [25.106\(b\)\(2\)](#) and [25.106\(c\)\(2\)](#) do not apply.

(i) If the evaluated price of the low *offer* remains less than the lowest *domestic offer*, award on the low *offer*.

(ii) If the price of the lowest *domestic offer* is less than the evaluated price of the low *offer*, award on the lowest *domestic offer*.

(d) *Ties*.

- (1) If application of an evaluation factor results in a tie between a *domestic offer* and a *foreign offer*, award on the *domestic offer*.
- (2) If no evaluation preference was applied (*i.e.*, *offers* afforded nondiscriminatory treatment under the Buy American statute), resolve ties between domestic and *foreign offers* by a witnessed drawing of lots by an impartial individual.
- (3) Resolve ties between *foreign offers* from small business concerns (under the Buy American statute, a small business offering a manufactured article that does not meet the definition of "*domestic end product*" is a *foreign offer*) or *foreign offers* from a small business concern and a large business concern in accordance with 14.408-6(a).

Parent topic: Subpart 25.5 - Evaluating Foreign Offers-Supply Contracts