

# PART 2915 - CONTRACTING BY NEGOTIATION

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

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## Subpart 2915.4 - Contract Pricing

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**Parent topic:** SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

## **Subpart 2915.4 - Contract Pricing**

### **2915.405-70 Determining fair and reasonable price.**

(a) Where the contractor insists on a price or demands a profit or fee that the contracting officer considers unreasonable and the contracting officer has taken all authorized actions to resolve the matter (see FAR 15.402), the contract action must be referred to the HCA for final resolution.

(b) Resolution under paragraph (a) of this section must be documented and signed by the HCA and included in the contract file.

## **Subpart 2915.5 - Preaward, Award, and Postaward Notifications, Protests, and Mistakes**

### **2915.508 Discovery of mistakes.**

(a) The HCA is authorized to make the administrative determinations in FAR 15.508 after consultation with the Office of the Solicitor as required by FAR 14.407-4. This authority may not be redelegated.

(b) The contracting officer must process a mistake and prepare a case file in accordance with the requirements of FAR 14.407-4(e)(2). The file must be submitted to the HCA for final determination.

## **Subpart 2915.6 - Unsolicited Proposals**

### **2915.604 Agency points of contact.**

(a) HCAs shall be the preliminary contacts for unsolicited proposals. This responsibility may be delegated.

(b) HCAs must establish within their agencies procedures for handling unsolicited proposals to ensure that unsolicited proposals are controlled, evaluated, safeguarded and disposed of in accordance with FAR 15.6.

(c) The HCA must not forward for consideration an unsolicited proposal, if the proposal resembles an upcoming solicitation or a procurement identified in the current annual acquisition plan.

### **2915.605 Content of unsolicited proposals.**

In addition to the contents required by FAR 15.605, unsolicited proposals for research should contain a commitment by the offeror to include cost-sharing or should represent a significant cost savings to the Department of Labor.

### **2915.606 Agency procedures.**

When an unsolicited proposal is received by an official of the Department of Labor, the recipient of the proposal must forward it to the HCA. The HCA must address the requirements of FAR 15.604. The HCA must determine if there is an office(s) within the Department of Labor whose mission could be impacted by the proposal. If there is, the HCA must designate a recipient within that office as an "assignee", and take the following action:

(a) Within seven (7) working days of receipt, the HCA must forward the proposal to the assignee along with instructions concerning the security, review and disposition of the document.

(1) Inform the offeror of this transfer in writing (preferably by facsimile or other electronic means).

(2) Within one (1) month of receipt of the unsolicited proposal by the assignee, the office receiving the proposal must determine the merit of the unsolicited proposal.

(i) If the office finds insufficient merit to consider the unsolicited proposal further, then a letter will be sent to inform the offeror that their proposal will not be considered further, and is not being retained.

(ii) If, after a comprehensive evaluation as defined by FAR 15.606-2, the office finds merit in the proposal, it must consult with a Department of Labor contracting officer for direction in complying with FAR 15.607. If not excluded by a condition of FAR 15.607(a), a requisition may be prepared in accordance with FAR 15.607(b). If the requirement exceeds the simplified acquisition threshold

inclusive of options then a request must be prepared for the Procurement Review Board in accordance with Department of Labor procedures stated in Department of Labor Manual Series 2-830 (available by mail from the Division of Acquisition Management Services).

(b) If within one

(1) month of receipt (by the HCA) no assignee can be identified, the HCA must notify the offeror that the proposal is not being considered further.