



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1815 and 1852

RIN 2700-AE13

NASA FAR Supplement: Proposal Adequacy Checklist

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA is proposing to amend the NASA FAR Supplement (NFS) to incorporate a proposal adequacy checklist for proposals in response to solicitations that require the submission of certified cost or pricing data.

DATES: Interested parties should submit comments to NASA at the address below on or before

[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER] to be considered in formulation of the final rule.

ADDRESSES: Interested parties may submit comments, identified by RIN number 2700-AE13 via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments may also be submitted to William Roets via email at william.roets-1@NASA.gov.

FOR FURTHER INFORMATION CONTACT:

William Roets, NASA, Office of Procurement, email: william.roets-1@NASA.gov, or phone: 202-358-4483.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule supports the NASA Assistant Administrator for Procurement's "Reducing Transaction Costs in NASA Procurements" initiative by incorporating the requirement for a proposal adequacy checklist into the NFS at 1815.408-70(c), and associated solicitation

provision at NFS 1852.215-85, to ensure offerors take responsibility for submitting thorough, accurate, and complete proposals. The provision will be included in solicitations that require the submission of certified cost or pricing data.

B. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866. This proposed rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

NASA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. However, an Initial Regulatory Flexibility Analysis has been performed and is summarized as follows:

This proposed rule amends the NFS to add a checklist for NASA contractors to complete under solicitations that require the submission of certified cost or pricing data. This rule supports the NASA Assistant Administrator for Procurement's "Reducing Transaction Costs in NASA Procurements" initiative by increasing uniformity across NASA and minimizing local variations in this area which will decrease proposal preparation costs.

The objective of this proposed rule is to ensure that offerors submit thorough, accurate, and complete proposals. By completing the checklist, offerors will be able to self-validate the adequacy of their proposals which will improve the quality of their initial proposal submissions.

This will reduce the need for contractors to rework their initial proposal submissions which will save the Government time and resources in performing the evaluation of the proposal.

The rule will apply to actions where certified cost or pricing data is required. Based on data collected in FPDS-NG for FY2010-2012, there are on average 1162 actions per year that met the criteria where the proposal adequacy checklist is to be utilized. On average, 462 of those actions were with small business concerns.

This proposed rule imposes no new reporting requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that would meet the objectives of the rule. Excluding the small number of small business concerns that may be subject to the rule would not be in the best interest of the small business concerns or the Government because the proposal adequacy checklist was created directly from requirements already in the Federal Acquisition Regulation. While the checklist does not add burden, it provides a useful tool for ensuring proposal adequacy.

NASA invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities. NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 and RIN number 2700-AE13 in correspondence.

D. Paperwork Reduction Act

This proposed rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35). However, these changes to the NFS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 9000-0013, entitled "Cost or Pricing Data Exemption Information."

List of Subjects in 48 CFR 1815 and 1852

Government procurement.

William P. McNally,
Assistant Administrator for Procurement

Accordingly, 48 CFR parts 1815 and 1852 are proposed to be amended as follows:

PART 1815--CONTRACTING BY NEGOTIATION ACQUISITION

1. The authority citation for part 1815 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In section 1815.408-70, paragraph (c) is added to read as follows:

1815.408-70 NASA solicitation provisions and contract clauses.

* * * * *

(c) When the solicitation requires the submission of certified cost or pricing data, the contracting officer shall include 1815.215-85, Proposal Adequacy Checklist, in the solicitation to facilitate submission of a thorough, accurate, and complete proposal.

PART 1852--SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority citation for part 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

4. Clause 1852.215-85 is added to read as follows:

1852.215-85 Proposal Adequacy Checklist.

As prescribed in 1815.408-70(c), use the following provision:

PROPOSAL ADEQUACY CHECKLIST

(XX/XX)

The offeror shall complete and submit as part of their proposal the following checklist, providing location of requested information, or an explanation of why the requested information is not provided. In preparation of the offeror's checklist, offerors may elect to have their prospective subcontractors use the same or similar checklist as appropriate.

PROPOSAL ADEQUACY CHECKLIST

	<u>REFERENCES</u>	<u>SUBMISSION ITEM</u>	<u>PROPOSAL PAGE No.</u>	<u>If not provided EXPLAIN (may use continuation pages traceable to this checklist)</u>
<u>GENERAL INSTRUCTIONS</u>				
1.	FAR 15.408, Table 15-2, Section I Paragraph A	Is there a properly completed first page of the proposal per FAR 15.408 Table 15-2 I.A or as specified in the solicitation?		
2.	FAR 15.408, Table 15-2, Section I Paragraph A(7)	Does the proposal identify the need for Government-furnished material/tooling/test equipment? Include the accountable contract number and contracting officer contact information if known.		
3.	FAR 15.408, Table 15-2, Section I Paragraph A(8)	If your organization is subject to Cost Accounting Standards (CAS), does the proposal identify the current status of your CAS Disclosure Statement? Does the proposal identify and explain notifications of noncompliance with Cost Accounting Standards Board or Cost Accounting Standards (CAS); any proposal inconsistencies with your disclosed practices or applicable CAS; and inconsistencies with your established estimating and accounting principles and procedures?		
4.	FAR 15.408, Table 15-2, Section I, Paragraph C(1) FAR 2.101, "Cost or pricing data"	Does the proposal disclose any other known activity that could materially impact the costs? This may include, but is not limited to, such factors as— (1) Vendor quotations;		

		<p>(2) Nonrecurring costs;</p> <p>(3) Information on changes in production methods and in production or purchasing volume;</p> <p>(4) Data supporting projections of business prospects and objectives and related operations costs;</p> <p>(5) Unit-cost trends such as those associated with labor efficiency;</p> <p>(6) Make-or-buy decisions;</p> <p>(7) Estimated resources to attain business goals; and</p> <p>(8) Information on management decisions that could have a significant bearing on costs.</p>		
5.	FAR 15.408, Table 15-2, Section I Paragraph B	Is an Index of all certified cost or pricing data and information accompanying or identified in the proposal provided and appropriately referenced?		
6.	FAR 15.403-1(b)	Are there any exceptions to submission of certified cost or pricing data pursuant to FAR 15.403-1(b)? If so, is supporting documentation included in the proposal? (Note questions 18-20.)		
7.	FAR 15.408, Table 15-2, Section I Paragraph C(2)(i)	Does the proposal disclose the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data?		
8.	FAR 15.408, Table 15-2, Section I Paragraph C(2)(ii)	Does the proposal disclose the nature and amount of any contingencies included in the proposed price?		
9.	FAR 15.408 Table 15-2, Section II, Paragraph A or B	Does the proposal explain the basis of all cost estimating relationships (labor hours or material) proposed on other than a discrete basis?		
10.	FAR 15.408,	Is there a summary of total cost by		

	Table 15-2, Section I Paragraphs D and E	element of cost and are the elements of cost cross-referenced to the supporting cost or pricing data? (Breakdowns for each cost element must be consistent with your cost accounting system, including breakdown by year.)		
11.	FAR 15.408, Table 15-2, Section I Paragraphs D and E	If more than one Contract Line Item Number (CLIN) or sub Contract Line Item Number (sub-CLIN) is proposed as required by the RFP, are there summary total amounts covering all line items for each element of cost and is it cross-referenced to the supporting cost or pricing data?		
12.	FAR 15.408, Table 15-2, Section I Paragraph F	Does the proposal identify any incurred costs for work performed before the submission of the proposal?		
13.	FAR 15.408, Table 15-2, Section I Paragraph G	Is there a Government forward pricing rate agreement (FPRA)? If so, the offeror shall identify the official submittal of such rate and factor data. If not, does the proposal include all rates and factors by year that are utilized in the development of the proposal and the basis for those rates and factors?		
COST ELEMENTS				
MATERIALS AND SERVICES				
14.	FAR 15.408, Table 15-2, Section II Paragraph A	Does the proposal include a consolidated summary of individual material and services, frequently referred to as a Consolidated Bill of Material (CBOM), to include the basis for pricing? The offeror's consolidated summary shall include raw materials, parts, components, assemblies, subcontracts and services to be produced or performed by others, identifying as a minimum the item, source, quantity, and price.		
SUBCONTRACTS (Purchased materials or services)				

15.	FAR 15.404-3(c) FAR 52.244-2	Per the thresholds of FAR 15.404-3(c), Subcontract Pricing Considerations, does the proposal include a copy of the applicable subcontractor's certified cost or pricing data?		
16.	FAR 15.408, Table 15-2, Note 1; Section II Paragraph A	Is there a price/cost analysis establishing the reasonableness of each of the proposed subcontracts included with the proposal? If the offeror's price/cost analyses are not provided with the proposal, does the proposal include a matrix identifying dates for receipt of subcontractor proposal, completion of fact finding for purposes of price/cost analysis, and submission of the price/cost analysis?		
<u>EXCEPTIONS TO CERTIFIED COST OR PRICING DATA</u>				
17.	FAR 52.215-20 FAR 2.101, "commercial item"	Has the offeror submitted an exception to the submission of certified cost or pricing data for commercial items proposed either at the prime or subcontractor level, in accordance with provision 52.215-20? a. Has the offeror specifically identified the type of commercial item claim (FAR 2.101 commercial item definition, paragraphs (1) through (8)), and the basis on which the item meets the definition? b. For modified commercial items (FAR 2.101 commercial item definition paragraph (3)); did the offeror classify the modification(s) as either— i. A modification of a type customarily available in the commercial marketplace (paragraph (3)(i)); or ii. A minor modification (paragraph (3)(ii)) of a type not		

		<p>customarily available in the commercial marketplace made to meet Federal Government requirements not exceeding the thresholds in FAR 15.403-1(c)(3)(iii)(B)?</p> <p>c. For proposed commercial items “of a type”, or “evolved” or modified (FAR 2.101 commercial item definition paragraphs (1) through (3)), did the contractor provide a technical description of the differences between the proposed item and the comparison item(s)?</p>		
18.	FAR 15.408, Table 15-2, Section II Paragraph A(1)	Does the proposal support the degree of competition and the basis for establishing the source and reasonableness of price for each subcontract or purchase order priced on a competitive basis exceeding the threshold for certified cost or pricing data?		
INTERORGANIZATIONAL TRANSFERS				
19.	FAR 15.408, Table 15-2, Section II Paragraph A.(2)	For inter-organizational transfers proposed at cost, does the proposal include a complete cost proposal in compliance with Table 15-2?		
20.	FAR 15.408, Table 15-2, Section II Paragraph A(1)	For inter-organizational transfers proposed at price in accordance with FAR 31.205-26(e), does the proposal provide an analysis by the prime that supports the exception from certified cost or pricing data in accordance with FAR 15.403-1?		
DIRECT LABOR				
21.	FAR 15.408, Table 15-2, Section II Paragraph B	Does the proposal include a time phased (i.e.; monthly, quarterly) breakdown of labor hours, rates and costs by category or skill level? If labor is the allocation base for indirect costs, the labor cost must be summarized in order that the applicable overhead rate can be applied.		
22.	FAR 15.408,	For labor Basis of Estimates		

	Table 15-2, Section II Paragraph B	(BOEs), does the proposal include labor categories, labor hours, and task descriptions, (e.g.; Statement of Work reference, applicable CLIN, Work Breakdown Structure, rationale for estimate, applicable history, and time-phasing)?		
23.	FAR subpart 22.10	If covered by the Service Contract Labor Standards statute (41 U.S.C. chapter 67), are the rates in the proposal in compliance with the minimum rates specified in the statute?		
<u>INDIRECT COSTS</u>				
24.	FAR 15.408, Table 15-2, Section II Paragraph C	Does the proposal indicate the basis of estimate for proposed indirect costs and how they are applied? (Support for the indirect rates could consist of cost breakdowns, trends, and budgetary data.)		
<u>OTHER COSTS</u>				
25.	FAR 15.408, Table 15-2, Section II Paragraph D	Does the proposal include other direct costs and the basis for pricing? If travel is included does the proposal include number of trips, number of people, number of days per trip, locations, and rates (e.g. airfare, per diem, hotel, car rental, etc.)?		
26.	FAR 15.408, Table 15-2, Section II Paragraph E	If royalties exceed \$1,500 does the proposal provide the information/data identified by Table 15-2?		
27.	FAR 15.408, Table 15-2, Section II Paragraph F	When facilities capital cost of money is proposed, does the proposal include submission of Form CASB-CMF or reference to an FPRA/FPRP and show the calculation of the proposed amount?		
<u>FORMATS FOR SUBMISSION OF LINE ITEM SUMMARIES</u>				
28.	FAR 15.408, Table 15-2, Section III	Are all cost element breakdowns provided using the applicable format prescribed in FAR 15.408,		

		Table 15-2 III? (or alternative format if specified in the request for proposal)		
29.	FAR 15.408, Table 15-2, Section III Paragraph B	If the proposal is for a modification or change order, have cost of work deleted (credits) and cost of work added (debits) been provided in the format described in FAR 15.408, Table 15-2.III.B?		
30.	FAR 15.408, Table 15-2, Section III Paragraph C	For price revisions/redeterminations, does the proposal follow the format in FAR 15.408, Table 15-2.III.C?		
<u>OTHER</u>				
31.	FAR 16.4	If an incentive contract type, does the proposal include offeror proposed target cost, target profit or fee, share ratio, and, when applicable, minimum/maximum fee, ceiling price?		
32.	FAR 16.203-4 and FAR 15.408 Table 15-2, Section II, Paragraphs A, B, C, and D	If Economic Price Adjustments are being proposed, does the proposal show the rationale and application for the economic price adjustment?		
33.	FAR 52.232-28	If the offeror is proposing Performance-Based Payments-did the offeror comply with FAR 52.232-28?		
34.	FAR 15.408(n) FAR 52.215-22 FAR 52.215-23	Excessive Pass-through Charges– Identification of Subcontract Effort: If the offeror intends to subcontract more than 70% of the total cost of work to be performed, does the proposal identify: (i) the amount of the offeror’s indirect costs and profit applicable to the work to be performed by the proposed subcontractor(s); and (ii) a description of the added value provided by the offeror as related to the work to be performed by the proposed subcontractor(s)?		

(End of provision)

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