



Will low-price contracting make us all losers?

By Bob Lohfeld

We are seeing a procurement strategy shift for technical and professional services bids brought about by procurement officials using lowest price, technically acceptable (LPTA) evaluation criteria rather than the more traditional best-value tradeoff criteria.

While there is certainly a place for the low-price strategy in federal procurements, it is definitely not suitable for procurements with complex services or uncertain performance risk. When the government applies the strategy to unsuitable procurements, both the government and the bidders lose. Here's what happens and what you can do about it.

When to use LPTA Evaluation Criteria

LPTA is actually a form of best value. In traditional best value procurements, the government allows tradeoffs among non-cost factors such as technical approach, management plan, past performance, etc. and cost when determining best value to the government. These tradeoffs give the government the latitude to award a contract to other than the lowest priced offeror when the tradeoffs show there is additional value to the government in these factors. When selecting the LPTA criteria for procurements, the government determines before the release of the request for proposals (RFP) that there is no additional value in trading off the non-cost factors versus cost.

In fact, LPTA evaluations specifically prohibit evaluators from making these tradeoffs and restrict evaluators to only scoring proposal factors and subfactors as either acceptable or unacceptable. The result is there is no value in the bidder exceeding any requirement in the RFP.

DOD's Source Selection Procedure is prescriptive about when it is appropriate to use LPTA. "The LPTA process is appropriate when best value is expected to result from selection of a technically acceptable proposal with the lowest evaluated price. LPTA may be used in situations where the government would not realize any value from a proposal exceeding the government's minimum technical or performance requirements, often for acquisitions of commercial or non-complex services or supplies which are clearly defined and expected to be low risk."

Procurements can use a hybrid of the tradeoff and LPTA approaches. For example, an RFP might state that the offeror's small and small disadvantaged business subcontracting plan is

evaluated as acceptable or unacceptable, while the technical approach is evaluated as being a best-value tradeoff based on the technical evaluation factor and subfactors. This can be a good compromise for some procurements since the hybrid approach lets evaluators trade off important proposal considerations against cost while using a pass/fail criteria for less important considerations.

Setting minimum technical and performance requirements

Procurements get into trouble when the LPTA criteria is applied to technical and professional services bids because the work is complex, minimum acceptable technical and performance requirements are difficult to describe, and the consequences from failure can be considerable.

In LPTA procurements, setting higher standards for acceptability becomes important because each bidder who meets the minimum acceptable standards has an equal opportunity to be selected for contract award. Setting the standards too low will let marginally acceptable bidders become candidates for contract award. These are the same bidders who would normally have been weeded out in best-value tradeoff procurements.

If standards are too low, every bidder will get through the acceptable hurdle, leaving only cost as the evaluation factor. Low standards effectively transform an LPTA procurement into an invitation for bid where award is made solely on the basis of price. These are inappropriate for professional and technical services bids.

Ideally, an RFP will define acceptability standards high enough to prevent marginal bidders from becoming candidates for award. To do this, an RFP must describe all requirements in a way that an evaluator can clearly determine what constitutes the higher level of acceptability and then differentiate between acceptable and unacceptable proposals. In services bids, it is often difficult enough to define the requirements, let alone define what constitutes an appropriately high level of acceptability for each factor or subfactor.

Raising standards of acceptability

To raise the standards of acceptability, an RFP might prescribe that the bidder have CMMI or ISO certifications or require proposed key or technical staff to have specific undergraduate degrees, advanced degrees, and/or professional certifications.

I've seen LPTA procurements where the incumbent's program manager failed to meet the minimum educational requirements, and the company bid the program manager anyway because he was well liked—only to discover later that their bid was determined to be unacceptable and they lost the competition because they did not meet this almost arbitrary personnel requirement.

Past performance might require evidence of several completed contracts of a minimum size or completed within the past 12 months. If the bidder doesn't meet these requirements, they must be evaluated as unacceptable.

Interestingly, DOD again prescribes, "when applying LPTA criteria to past performance evaluations, an offeror without a record of relevant past performance or for whom information on past performance is not available or is so sparse that no meaningful past performance rating can be reasonably assigned, the offeror may not be evaluated favorably or unfavorably on past performance (see FAR 15.305 (a)(2)(iv)). Therefore, the offeror shall be determined to have unknown past performance. In the context of acceptability/unacceptability, unknown shall be considered acceptable."

Each higher requirement raises the bar of acceptability, but because the evaluation is LPTA, the government cannot give additional consideration to companies exceeding a requirement by considerable margin over those who squeak by, barely meeting the requirement.

If it's not easy to clearly define higher criteria for acceptability, then it's best to avoid LPTA and use traditional best-value tradeoffs.

Lowest price wins

When an offeror's proposal has been found acceptable, all that stands between the offeror and victory is having the lowest evaluated price. Bidders use many tactics to lower their evaluated price. With the application of these tactics, each bidder takes on more risk in contract performance. Generally, as price is pushed downward, performance risk goes up.

The satisfaction of having awarded to the lowest price offeror can soon be overshadowed by the burden of poor contractor performance. Slow contract staffing is an early indicator of contractor performance problems, followed by marginal technical accomplishment, late deliveries, and ultimately cost overruns. In the long run, the lowest bidder's performance reputation suffers, and the government is criticized for cost and schedule overruns and for failing to manage their program correctly. In the end, everyone loses.

We can all avoid this plight if we all help educate program and procurement officials about pitfalls of using LPTA as a procurement strategy for technical and professional services bids.

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