

**USACE Baltimore District
NGA New Campus East Pre-Solicitation Conference 5 Mar 2007
Questions and Answers regarding the draft RFP
for Integrated Design Bid Build (IDBB)**

1. Will this project require 100% bonding?

The solicitation will be issued requiring Payment and Performance bonds with a penal sum of \$500 million. The penal sum will be fixed and will not be revised to coincide with the actual contract value.

2. How will the Government mitigate the potential adversarial relationship between the designer and constructor when determining price?

The Government will review both designer's and constructor's estimate for each cost estimate prepared. Significant differences will be discussed and analyzed jointly by all parties, including the Government. If all parties fail to agree on the value of the estimate then the Government shall determine its value.

In terms of establishing the firm fixed price for the contract after the production point, this will be a negotiated settlement between the constructor and the Government.

3. Is the initial ceiling an estimate or will the Corps revise the proposed RFP language to make clear that the cost and profit ceilings are estimates for evaluation purposes only and do not establish a firm target, that the ceiling will be negotiated when the project is sufficiently developed to allow a fixed price.

The initial cost and profit are initial targets. The ceiling is the fixed amount setting the Government's maximum liability. The firm target cost and profit will be established at the conversion to a firm fixed price and will be based on the final 100% design documents.

4. Is the Corps intent that the contractor be entitled to bill twice a month on a percentage completion basis under FAR 52.232-5 with the percentage of completion measured against the initial target price until the final target price (or Firm fixed price) is negotiated?

A monthly payment will be made in accordance with FAR 52.232-5. The interim (mid-month) payment will be an estimated payment. The reconciliation of the estimated payment with actual progress will occur during the monthly payment process. The initial target price will be the amount initially distributed against the work breakdown structure for payment purposes. The entitlement for the twice a month billing is predicated on the

constructors ability to maintain schedule. The clause we intend to insert in the contract is shown below:

1.1. ADDITIONAL MONTHLY INCENTIVE PROGRESS PAYMENT (MAY 06)

(a) As an incentive for maintaining satisfactory progress, The Government offers to make an interim monthly progress payment for satisfactory design and construction work in compliance with the contract, while construction operations are underway, up to turnover of the facilities to the Government. This is a second monthly progress payment, in between the regular monthly progress payment that is described in Contract Clause 52.232-5, PAYMENTS UNDER FIXED PRICE CONSTRUCTION CONTRACTS.

(b) As a condition for the additional progress payment, the Contractor must maintain progress within 2% of scheduled progress and within 7 calendar days of the scheduled progress along the critical path(s) at the time of submission.

All requirements of the contract clauses PAYMENTS UNDER FIXED PRICE CONSTRUCTION CONTRACTS and 52.232-25, PROMPT PAYMENT, will apply to the interim progress payment. In lieu of submitting an updated progress schedule to substantiate the amounts included in the interim progress payment, the Contracting Officer will determine what documentation is required to support an interim payment, including the required Prompt Payment Certification. For the next regular monthly progress payment following an interim payment, the Contractor shall reconcile the interim progress payment against actual progress.

5. Several questions were related to the management of the management reserve/contingencies.

The provisions related to the management reserve have been deleted.

6. Will the Small Business goals for this procurement be the same as the Baltimore District's goals?

Yes. The goals will be stated in the solicitation.

7. Please confirm that the total Small Business goal can be met on an accrued basis for the entire project as opposed to meeting the 50% Small Business goal on a yearly basis.

The measurement of performance against the small business goals will be for the performance of the total project on an accrued basis. However the contractor is still required to provide final reports on a yearly basis as required by the contract.

8. Please confirm the Government will allow prime contractors to meet their Small Business (SB) contracting dollars by taking credit for the SB dollars of lower tier subs.

No. Credit may only be taken to the first tier subcontractor level.

9. Please confirm that the small business goal of 50% is 50% of the value of the subcontracted work and not 50% of the value of the prime contractor's contract.

Confirmed

10. Will a proposal submitted with a ceiling price above the budget for the project stated in the solicitation, will this result in being eliminated from the competitive range?

No. Competitive range decisions will be based on a holistic evaluation of the proposals.

11. Based on the original proposal, can the Government unilaterally direct the contractor to perform the work without further negotiations?

No. At the production point, the contractor is required to propose a firm target cost and profit. The documentation supplied to support the firm target cost and firm target profit are the basis for negotiations to convert the contract to a firm fixed price. If there is failure to come to agreement at this point then a profit adjustment formula will be established under which the total final cost will be established.

12. If the offeror is composed of a joint venture, will the experience/past performance of the individual companies be acceptable and evaluated.

Yes.

13. Is there a single production point when all drawings are 100% complete?

Yes. While it is anticipated that discrete portions of the project will be advanced to 100% at different stages, the production point will occur when the final package reaches 100%.

14. Will the constructor produce all construction drawings?

No. The designer of record has full responsibility to produce all design documents.

15. What documents will be available for use at the production point.

The complete 100% plans and specifications for the entire project will be available.

16. What is the production point per FAR 16.403-2 (a)(1)iv?

See number 14 above.

17. How does the Government intend to resolve cost issues for design components that cannot be resolved directly between the Contractor and the Designer of Record?

The Government intends to ensure that the cost goals of the Designer of Record (“design-to” target) and the contractor (“target price”) are aligned. Furthermore, the Government team shall be involved throughout the design and construction process. The Government will have in place a dispute resolution process to facilitate prompt escalation of issues that arise between any of the parties that impact schedule or cost. The Government will be prepared to make final decisions in order to resolve issues and allow the project to move forward.

18. Will the Government allocate additional design funding to save on the ultimate construction cost?

The Government is utilizing the IDBB procurement strategy to facilitate a collaborative approach to the project from the designer and the constructor. The constructor’s suggestions to maximize the efficiency of the project are encouraged. In the event that this process results in the identification of potential changes to the project that require additional design funds but would be offset by greater savings on the construction cost of the facility, the Government will consider those changes. The evaluation will include cost, schedule, and quality impacts.

To the extent that Government-driven scope changes or differing site conditions, the Government will make informed business decisions to either increase the target price and/or ceiling price, or to delete scope to maintain the previously established target and ceiling.

19. With respect to pricing a particular design package, what is the final de-confliction mechanism between the designer’s design and the constructor’s assessment of the design?

The Government intends to staff this project with a full range of technical support to include all engineering disciplines, estimating support, scheduling support, quality assurance personnel, office engineers, project managers and design managers who are independent of both the designer of record and the constructor. The Government will be involved in all aspects of the design development, scope issues, scheduling and estimate resolution. If the three parties cannot de-conflict estimates or any other issue at the project level an issue resolution ladder will be invoked and followed until a solution is reached.

20. With respect to fast-track construction, will you have the ability to renegotiate the target cost and profit if design and target price are not completely negotiated, yet the government directs construction to move forward?

The design and target price will become the same by the issuance of a modification to the contract with the Designer of Record at the time the construction contract is awarded. The target and ceiling price are adjustable under any of the clauses in the contract that permit price adjustments found in a standard fixed price construction contract. However, there is discretion, as an adjustment of the target price does not automatically justify an adjustment in the ceiling.

21. Will there be an escalation clause/methodology for increases in commodities?

An escalation clause shall not be included in this contract. The ability of the contractor to obtain firm subcontracts as the packages are provided, and the iterative cycles of estimate reviews adjusted for actual costs feeding back into the design process, should help minimize the constructor's exposure to unanticipated escalations.

22. Will the government provide an avenue in which to obtain cleared (secret/TS) workers as in certain IT projects at NGA?

Yes, after contract award, the Government and contractor will jointly determine the need for certain contractor personnel to be cleared. The need for cleared personnel is not anticipated until the contractor begins to turn over finished spaces for beneficial occupancy. The number of personnel requiring clearances is expected to be minimal, and should be confined to key staff needed to escort other contractor personnel into spaces that have been turned over for beneficial occupancy by the Government and subsequently locked down from a security standpoint. Those identified for clearances will be required to submit the required paperwork and undergo the appropriate level of investigation to obtain the necessary clearance for performance of their duties on this project.

23. Is it realistic that the award of the base bid (construction integration phase services) and the award of the construction option may occur during the same quarter of 2007?

It is possible. At this time, the award of the construction integration phase services is scheduled for August. The final design of the first construction package (site work for the central utility plant) is scheduled to be complete in mid-September. In general, it is anticipated that design work for the central utility plant and the tech center will be well advanced by the time the IDBB contract is awarded, but the design work for the main building will be at a concept stage.

24. Will the EVMS requirement be dropped at the production point when the contract evolves into a FFP?

At this time, the Government anticipates EVMS will be a requirement throughout the life of the contract.

25. What happens if the ceiling price is exceeded?

If the contractor notifies the Government that costs is anticipated to exceed the ceiling price, the entire team will evaluate the cause. Cost increases resulting from Government action or other issues allowing for price adjustment under the contract provisions may necessitate an increase in the ceiling price. In general, however, it is anticipated that the sequencing of multiple construction packages and the iterative approach to estimating the project value will allow all parties to maintain a cost within the ceiling.

26. Does the profit adjustment formula apply to all packages individually?

No. The profit adjustment formula only applies at the production point, when the Government and the contractor attempt to convert from fixed price incentive to firm fixed price.

27. Request clear lines of control, responsibility and authority between the contractor and designer (not just for E&O but also VE opportunities) and resolution procedures for differences and disagreements.

See 18 above regarding the Government's plan to staff and manage this project.

Regarding value engineering, the "value engineering change proposal" (FAR 52.248-3) clause will not be included in this contract.

28. Bid Schedule: Line item 0004 is understood to be equal to or greater that the sum of line items 0001 – 0003; why is the sum of line items 0001,0002 and 0004 (exclusive of line items 0003a, 0003b and 0003c) used in the price evaluation?

Line items 0001, 0002 and 0004 are essentially binding price elements of the proposal and can be used for both price and cost analysis during the cost review portion of the evaluation. Line items 0003a, 0003b and 0003c are target costs, which are expected to vary at the production point from those submitted in the initial proposal; hence they can only be subjected to a cost realism analysis.

29. The subcontracting plan is indicated to be submitted with the initial proposal and during the pre-construction phase, please clarify. Also is there a page limitation for the subcontracting plan?

The subcontracting plan will be submitted with the initial proposal in response to the solicitation. There will be no page limit.

30. The criteria indicate higher levels of self-performed work will be rated more favorably. How is this evaluated when subject to Government determination of market competitiveness at the time the contractor submits the results of the competitive procurement?

The criterion is based on what the contractor plans to self-perform. A subsequent Government determination on market competitiveness cannot be retroactively applied to the Contractor's technical submission.

31. Confirm that a properly signed letter of commitment to execute a joint venture, limited liability company, or other teaming arrangement upon award of contract will be acceptable at the time of proposal submission.

The solicitation will require a copy of the Joint Venture as part of the proposal and not a letter of intent as there is risk in the possibility of the parties not having reached an agreement by the time of the award.

32. Confirm a scope and schedule of IT and move management will be provided in the solicitation as a basis for calculating the Initial Target price.

The solicitation will include a discussion of phasing requirements, including "anchor points" or need dates related to Government beneficial occupancy, IT installation, and moves.

33. Clarify whether 9 or 10 construction packages is correct and correlate this to the 35%, 65%, 90% and 100% review periods.

Currently we are planning on the production of 10 construction packages. The number of packages may be revised upward or downward after contract award based on input from the constructor as to the most efficient way to sequence the work. The number of reviews associated with 10 packages is estimated to be 30. The specific number of reviews for each package will vary depending on the size, risk and complexity of the package.

34. Confirm that "Hospital" requirements pertain to this project.

Hospital requirements do not apply to this project and have been removed from the solicitation.

35. Confirm there is a time limit to the reconciliation efforts between the constructor and designer.

The time period will depend on the size of the package for which the cost estimate is prepared. For smaller packages 2 weeks are sufficient, for the major building packages, the period may extend to 6 weeks. Every effort will be made to keep the periods as short as possible.

36. What FAR clause(s) and prime contractor flow-down requirements govern the IDBB contractor's competitive procurement of subcontracts?

The procurement of subcontracts will use competitive procedures that reflect good business practice.

37. Confirm who will receive and evaluate the IDBB Contractor's cost proposal for self-performed work on behalf of the Government and how a final determination will be made.

The Contracting Officer will assign a lead negotiator for the project. This individual will receive the pricing information and in consultation with all team members (to include the Constructor) make a decision based on good business judgment.

38. Confirm that when a firm fixed price is established, the ceiling price is eliminated and assuming the FFP is lower than the ceiling price, the Performance and Payment bonds are reduced accordingly.

The ceiling price is eliminated at conversion to a firm fixed price. The Government will require a \$500 million performance and payment bond, which will not be increased or decreased during the performance period of the contract.

39. Does the proposed schedule include dates to resolve the following issues and will schedule impacts be adjusted in the Target and Ceiling Price: exercise of option in 120 days; Record of Decision; utility capacity and availability; removal of UXO; impacts of construction activity on adjacent site; and delays in incremental funding.

The Job Conditions portion of the specification will layout expected schedule interfaces. Changes which occur impacting either the technical or schedule features of the contract as authorized by contract clauses may result in revisions to the target or ceiling prices.

40. In responding to the prime contractor solicitation, confirm pre-selected subcontracts within the IDBB Contractor's team are allowed.

Subcontracts associated with the construction portion of the contract involving target and ceiling pricing shall be competed. Subcontracts associated with the Construction Integration Services or fixed price construction under the base bid do not need to be competed.

41. Confirm the cost of the Performance and Payment Bonds on the Ceiling Price will be included in the Pre-Construction Services Lump Sum price proposal.

The Government will reimburse the constructor for the full price of the bond when it is paid by the constructor. Our assumption is only the amount of the base bid will be bonded at award of the base bid. Upon award of the option, the penal sum will be increased to \$500 million.

42. We assume the role of the contractor in the construction integration phase is associated with interface and coordination with the designer. All other work that occurs within this time frame including construction planning, estimating, procurement, subcontracting and other activities are completed on a cost reimbursable basis.

All work performed in accordance to the Construction Integration scope of work is firm fixed price. Efforts associated with execution of the construction option portion of this contract are administered in accordance with FAR 52.216-17, Incentive Price Revision (Successive Targets) clause. Defense Contract Audit Agency (DCAA) will be conducting reviews and audits throughout this portion of the contract.

43. Substantial risk remains at the Production point unless we are provided with firm design information that can be used to procure materials and execute subcontracts much earlier. Please explain in greater detail what design content will be provided when.

The solicitation will outline the current approach to fast tracking approximately 10 design packages. After contract award, the contractor will have input as to the content and schedule for issuing design packages. As each package is brought to 100% design, and following a cost reconciliation process among the constructor, the designer, and the Government, the Government may issue a NTP for that package. At that point, the contractor would be able to hire subcontractors and procure materials.

44. Please explain the purpose of both the designer and constructor completing construction cost estimates for each design package issued. How is information resulting from this process used in conversion to a final lump sum cost? How are differentials between actual cost for work completed on a cost reimbursable basis and the reconciled estimates dealt with? Are actual values or reconciled estimate values incorporated into the final lump sum cost?

The estimates prepared by the designer and constructor are used for planning and verifying the project is on budget. The result of the analysis will help dictate what revisions are required in the design to maintain the project on budget. The estimates prepared in the design phase are not used in establishment of the final firm fixed price. The cost of actual work performed will be a factor in the constructor's projections on the cost to complete the project. Differences between the actual costs incurred versus

previous estimates are used in the iterative process in establishing what the final projected cost will be.

45. We intend to submit proposals on several of the large projects planned by the Corps of Engineers. However, based on our available management resources we can only construct one of the projects. If we are awarded one of the projects will we be permitted to withdraw our proposals submitted on the other projects without penalty to our bid bond or company reputation?

We are interested in having the best firm construct each project. We will view firms who have received one major award and desiring to withdraw from the other solicitations prior to award as exercising sound business judgment in their desire to have excellent performance on one project as opposed to average or poor performance on two projects. We will not pursue the bid bond of firms that withdraw their proposal prior to award.