

UNSOLICITED OFFER WITH BID MATCHING

Overview

Unsolicited Offer with Bid Matching is a mode of procurement wherein the Procuring Entity may consider unsolicited offers from the original offeror on a negotiated basis for Goods and Consulting Services.



The "Original Offeror" refers to the entity that initially submitted an unsolicited offer and whose proposal has been determined by the Procuring Entity as necessary and involves a new concept or technology, subject to the procedure outlined in this IRR.

Conditions

a) As determined by the HoPE, the procurement involves a new concept or technology in any of the following instances:



i) Offers a substantial improvement over existing solutions, demonstrated through verifiable data, proof of concept, or technical studies;



ii) Incorporates features promoting emerging technology and sustainable solutions;



iii) Involves state-of-the-art technology, as certified by a recognized independent agency with expertise in the field; or



iv) Provides significant benefits to the procuring entity in terms of efficiency, cost, or outcome.

b) The Procuring Entity has invited comparative or competitive bids which refer to offers submitted by the bidders through Competitive Bidding in response to a call for offers by way of Invitation to Bid or Request for Expression of Interest.

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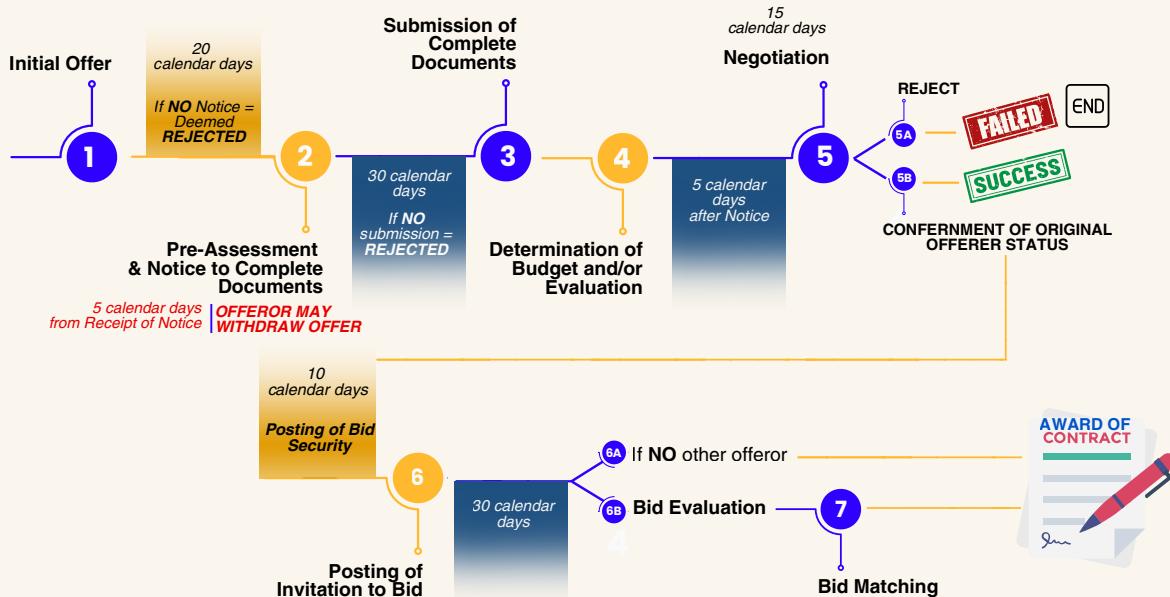
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Documentary Requirements

For the unsolicited offer to be considered for evaluation by the Procuring Entity, the manufacturer, distributor, supplier, or consultant shall submit the following:

- a) Details of the new concept or technology which shall contain the following information:
 - i) A basic description of the new concept or technology in compliance with sub-section 30.1(a), including but not limited to its purpose, unique features, and potential applications;
 - ii) The expected output or outcome, clearly demonstrating the advantages and improvements of the Goods and Consulting Services being offered compared to existing solutions;
 - iii) A detailed cost-benefit analysis comparing the new concept or technology with available alternatives in terms of efficiency, quality, and overall value for money; and
 - iv) The proposed contract cost, with supporting detailed computations and justifications, which shall serve as the indicative ABC for purposes of eligibility checking and bid matching.
- b) Proof of concept, or equivalent document or sample to validate the feasibility and effectiveness of the proposed technology or solution.
- c) The proponent must submit the necessary legal, technical, and financial eligibility documents as prescribed under Section 52 of this IRR.
- d) The proponent must include detailed proposed terms and conditions for the offer, which should address project timelines, deliverables, warranties, and other relevant contractual provisions which includes consent to allow the Procuring Entity and other bidders to use the entire offer document for the purpose of bid matching notwithstanding the provisions of RA No. 8293, otherwise known as the Intellectual Property Code of the Philippines, as amended.

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Within twenty (20) calendar days from receipt of the unsolicited offer, the Procuring Entity shall assess whether the project being offered is necessary pursuant to its nature, function and responsibilities. If the need is determined, the Procuring Entity shall notify the offeror within the same twenty (20) day period that it shall conduct the evaluation of the offer upon the submission of complete documentary requirements pursuant to Section 30.2 within thirty (30) calendar days from notice. Resubmission due to lacking requirements shall be considered as a new submission, subject to the first in time, stronger in right approach, as provided in the succeeding sub-section.

The offer shall be deemed rejected if the Procuring Entity did not act on the offer within the twenty (20)-day period, or if the offeror failed to submit complete documentary requirements within the thirty-day period as prescribed in the preceding paragraph. The offeror may still withdraw its unsolicited offer within five (5) calendar days from receipt of the notice from the Procuring Entity. If the offer is withdrawn after such period, the offeror shall not be allowed to participate in any procurement opportunity of the Procuring Entity for a period of one (1) year on the first offense, two (2) years on the second offense, and perpetually on the third offense.

In case the Procuring Entity receives more than one unsolicited offer with complete documentary requirements involving the same or similar new concept or technology, the first in time, stronger in right approach shall be applied in determining the original offeror. All other offers shall be rejected without prejudice to the participation by the other offerors in the competitive bidding under this mode.

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The Procuring Entity, through the End-User or Implementing Unit, shall conduct an evaluation of the submitted requirements to determine if the project being offered involves a new concept or technology in accordance with Section 30.1(a). The Procuring Entity shall complete the entire evaluation process within sixty (60) calendar days, unless extended by the HoPE for justifiable reasons not exceeding thirty (30) calendar days. During the evaluation process, the Procuring Entity shall likewise verify, validate, and ascertain the legal, technical, and financial eligibility of the offeror; and determine if funds are available to meet the offer, subject to budgeting, accounting, and auditing laws, rules, and regulations. The Procuring Entity shall notify the offeror of the results of the evaluation. In case of favorable evaluation results, the Procuring Entity shall inform the offeror in the same notice that negotiation shall commence at a specified date within five (5) calendar days from receipt of notice.

The Procuring Entity shall negotiate with the offeror on the project scope, price, implementation arrangements, and the terms and conditions of the ensuing contract, among others, and discuss budget availability and related issues, if any. The Procuring Entity shall complete the negotiation with the offeror within fifteen (15) calendar days from the commencement thereof.



If the negotiation is unsuccessful, the Procuring Entity shall declare a failure of negotiation, resulting in the termination of the procurement activity.



If the negotiation is successful, the Procuring Entity shall issue a certification conferring original offeror status to the offeror. Such status confirms the offeror's responsiveness to the legal, technical, and financial requirements of the proposed project. The offeror shall submit the appropriate bid security pursuant to Section 56 of this IRR within ten (10) calendar days from receipt of the certification conferring original offeror status.

After appropriate funds are secured for the purpose, the Procuring Entity shall ensure that the particular Goods or Consulting Services are included in the APP.

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Process

Within thirty (30) calendar days from the conferment of the original offeror status, the Procuring Entity shall publish an Invitation to Bid for comparative or competitive bids against the negotiated original offer. The comparative or competitive bids shall be composed of the technical proposal that complies with the technical specifications or terms of reference of the negotiated original offer, and the financial proposal. The comparative or competitive bid that complies with the technical component of the negotiated original offer and with the lowest price proposal shall be declared as the Lowest Comparative or Competitive Bid (LCCB), subject to post-qualification pursuant to Section 63 of this IRR. If the LCCB passes all the criteria for post-qualification, it shall be declared as the Lowest Comparative or Competitive Responsive Bid (LCCRB).

Within fifteen (15) calendar days from determination of the LCCRB, the original offeror may match the offer of the LCCRB or submit a lower price proposal. The contract shall be awarded to the original offeror if:

- a) No comparative or competitive bid is received within the period prescribed in the IRR;
- b) The bids submitted by the comparative offerors failed at bid opening; or
- c) The original offeror matched or submits a lower price proposal against the comparative or competitive bid.

In case the original offeror is unable to match the offer of the LCCRB or submit a lower price proposal, the contract shall be awarded to the bidder with the LCCRB.

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