Broad Agency Announcements

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Introduction

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Topics of Discussion

- Introduction to BAAs
- BAA Process
- Best Practices
- Case Law
- Other Sources of Information
Introduction to BAAs

- Broad Agency Announcement
- FAR 35.016
- Review of Important Definitions
- Comparison with RFP
“Broad agency announcement” means a general announcement of an agency’s research interest including criteria for selecting proposals and soliciting the participation of all offerors capable of satisfying the Government’s needs (see 6.102(d)(2)). FAR 2.101.
BAAs – FAR 35.016

- Acquire basic and applied research and that part of development not related to specific system or hardware
- Fulfill requirements for scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding
BAAs – FAR 35.016 (con.)

- Only may use when meaningful proposals with varying technical/scientific approaches can be reasonably anticipated
Characteristics of the BAA Process

- Does not limit ideas and/or approaches for solutions
- Offeror prepares a SOW tailored to the proposed solution to the problem
- Offerors can respond to all or part of the areas of interest
Characteristics (con.)

- Permits open discussion with the Government technical focal point
Basis Research – Defined

- Basic research means that research directed toward increasing knowledge in science. The primary aim of basic research is a fuller knowledge or understanding of the subject under study, rather than any practical application of that knowledge. FAR 2.101.
Applied Research – Defined

- Applied research means the effort that (a) normally follows basic research, but may not be severable from the related basic research; (b) attempts to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques; and (c) attempts to advance the state of the art.
When being used by contractors in cost principle applications, this term does not include efforts whose principal aim is the design, development, or testing of specific items or services to be considered for sale.

Such efforts are within the definition of “development.”
BAA v. RFP: Research and Development

- **RFP** - Focusing on a specific system or hardware solution
- **BAA** - Scientific study and experimentation directed toward advancing the state-of-the-art or increasing knowledge or understanding
BAA v. RFP: Statement of Work

- RFP - The Government drafts a common SOW to which all offerors propose.
- BAA - The Government drafts a statement of the problem or general research interest. Each offeror proposes its own statement of work and technical approach.
BAA v. RFP: Proposal Comparison

- **RFP** - All proposals are supposed to do the same thing. Winner is selected by comparing proposals.

- **BAA** - Proposals contain stand-alone unique solutions. They are not compared to one another.
BAA v. RFP - Nature of the Competition

- RFP - Proposals address common SOW and compete, one against another.
- BAA - Each proposal presents a separate approach to solving the problem – marketplace of ideas. Cost or price is rarely the deciding factor on the winning proposal.
BAA v. RFP: Evaluation Process

- RFP- Follows very closely a predetermined source selection plan.
- BAA- Proposals undergo a scientific review process. A proposal that is otherwise weak could be selected if it shows great technical promise, such as a risky but perhaps revolutionary approach.
Improper Use of BAA

- Use of BAA to secure from one supplier mobile x-ray device for detection of contraband was utilization of noncompetitive method of procurement in violation of CICA; specific device was called for, by specifications, rather than basic or applied research covered.
Whenever practicable, set-aside discrete or severable areas of research interest to historically black colleges and universities and minority institutions

DFARS § 235.016
BAA Process

- Notice
- Contents
- Proposals
- Evaluation/Award
- Negotiations
BAA – Notice Requirements

- **WWW.FBO.GOV** – Federal Business Opportunities
- Research and Development – Classification “A” Section
- Noted scientific, technical, or engineering periodicals (if authorized)
Notice (con.)

- The notice must be published no less frequently than annually for open BAAs
- Notice of Award Not Necessary
BAA – Be Proactive

- Explore Fed Biz Opps
- Review Prior Research
- Fedconnect.net
- Determine Potential Clients
- Engage before Announcements
- FOIA Requests
Be Proactive (continue)

- Attend Proposers’ Day Briefings
- Attend Other Agency Events
- Pull POCs from Fed Biz Opps and Call for Future Events or Suggested Studies
Contents of BAA & Supporting Documents

- Agency’s Research Interest
- Selection Criteria and Relative Importance
- Method of Evaluation
- Preparation and Submission Instructions, including Timing
BAA – “Site Visits”

- Informational briefings
- Details as to time, date, place, number of attendees permitted, or clearances needed
- If not included, request!
BAAs – Communications with Agency

- Government technical personnel may continue to talk directly with prospective offerors on a BAA announcement to resolve questions and provide general program information until a proposal is submitted.
BAA – Improper Discussions

- Other offeror’s proposals or White Papers
- Rating information of other offerors
- Questions outside the scope of the technical focal point, such as contract terms and conditions, or projected award schedule, should be referred to the CO
BAA – Challenge Agency

- Review Terms Carefully
- Ask Questions – Verbal and Writing
- File Protest If Necessary, be timely
- Agency properly restricted review of proposal to only one volume of proposal
- Protester did not review closely until rejected
Some Agencies Use Two Steps

- Avoid Additional Work for Offeror and Agency
- Request for White or Concept Paper
- Less than 5 Pages
- Title, Period of Performance, Estimated Cost, Task Objective, Technical Summary and Proposed Deliverables
Evaluation of White Papers

- Use criteria stated in the BAA announcement
- Determine which White Papers to pursue based on their applicability and consistency with the intent of the BAA
Step Two – Similar to Single Step

- Selected offerors are then requested to submit a definitive technical and cost proposal for RRS to evaluate.
- Offerors whose white papers are not selected for full proposal submission may still submit a full proposal if they wish.
Proposal Submission

- The Obvious
- Simple (as possible)
- Economical, providing straightforward, concise delineation of the technical solution necessary to perform the proposal
- Fully supported cost proposal
Where protester's proposal failed to include sufficient technical information to establish viability of proposed research, agency reasonably determined that technical success was improbable and properly determined not to fund proposal.
Proprietary Information

- Insert Language from FAR 52.215-1(e)(1) and (2) on Cover Page
- Indicate No Disclosure
- Identify Page Numbers
- “Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.”
BAA – Proposal Evaluation

- Evaluation Criteria in Solicitation
- Peer or Scientific Review Process
- Written Evaluation Reports on Proposals
- Comparative Evaluation Not Necessary as no common work statement
In reviewing a protest of an agency’s proposal evaluation, GAO will not reevaluate proposals.

Was evaluation reasonable and consistent with the terms of the solicitation and applicable procurement statutes and regulations.
Evaluations

- Rank Proposals – One approach
- 3 Categories
- Recommended for Acceptance
- May be Recommended
- Not Recommended
Evaluation Issues

- The use of unstated criteria is not permitted in evaluating proposals, but criteria that are reasonably related to stated criteria may be used.

- To the extent that unstated criteria were present, they were reasonably related to stated criteria and so caused no prejudice to the selection process.
Evaluation Issues (con.)

- Proper to evaluate whether proposal met a “minimum” requirement
- Denied protest as to allegation of evaluation based upon an unstated criterion-access to rights in proprietary data
A request to submit a definitive technical and cost proposal does not guarantee an award.

Award is dependent on submission of a sound technical and cost proposal and is subject to successful negotiations as well as the availability of funds.
BAA – Selection for Award

- Primary basis - technical, importance to agency programs, and fund availability
- Cost realism and reasonableness shall also be considered to the extent appropriate
BAA – Fixed v. Cost Price Contract

- Agency had announced intention to award two phase BAA Cost-Plus Contract
- Vendor received phase one fixed price contract due to inadequate accounting system
- Vendor’s challenge to rejection of fixed price proposal rejected
Technical and Cost Negotiations

- Model Contract
- Revised Cost Proposal
- Technical Proposal Changes
- Partial Award
Negotiations – Be Flexible

- Agency reasonably discontinued negotiations that lasted four months where no agreement concerning intellectual property rights.
- FAR meaningful negotiations not applicable at this phase, but still must be reasonable.
Post Award

- Debriefings
- Always Request – Award or No Award
- Request Copy of Final Technical Report
Protest Issue – GAO/COFC

- U.S. Court of Federal Claims has ruled that it has no protest jurisdiction over Small Business Innovation Research procurements - not procurements. This conflicts with the view of the GAO.
- Unclear as to all BAAs
Rome Research – Industry Guide

- Detailed Directions for Writing Proposal
- Follow Directions in BAA
- If None or Unclear, Clarify
- Use as a Model
Other Resources

- Combating Terrorism Technical Support Office (CTTSO) Broad Agency Announcement (BAA) Information Delivery System (BIDS)
  - [www.bids.tswg.gov](http://www.bids.tswg.gov)
Government Calls for Oil Spill Response Solutions--In connection with the BP Deepwater Horizon oil spill in the Gulf of Mexico, the Coast Guard’s Research and Development Center (RDC) June 4 issued a broad agency announcement on FedBizOpps asking vendors to submit white papers on (1) oil-sensing improvements to response and detection, (2) oil wellhead control and submerged oil response, (3) traditional oil spill response technologies, (4) alternative oil spill response technologies, and (5) oil spill damage assessment and restoration.

The Interagency Alternative Technology Assessment Program workgroup, created by Adm. Thad Allen, the national incident commander for the spill, will work with RDC to evaluate submissions for scientific and technical merit, feasibility, availability of the proposed solution and estimated costs.
Others

- Boeing-SAIC Team for the Army's Future Combat Systems used to seek proposals for combat systems, command control, communications, computers, intelligence, surveillance, reconnaissance, and supportability.