

## SUPPORTING STATEMENT FOR 0505-0013

### Instructions for the Preparation of Technical and Business Proposals

#### A. Justification.

1. Need for data collection. In order to obtain goods or services, USDA, like other Federal agencies, has established agency contracting offices to enter into Federal contracts. These offices employ contracting officers, who use various methods to award contracts for goods or services. One method, prescribed by Part 15 of the Federal Acquisition Regulation (FAR) (48 CFR part 15), is contracting by negotiation. In contracting by negotiation, contracting officers issue solicitations to request offers for required products or services from businesses in the private sector. Nonprofit institutions or state or local governments may also submit offers in response to solicitations. Clauses in the solicitation are called "provisions" when they are not to be incorporated in the contract, and "clauses" when they become parts of the contract terms and conditions.

Together with the solicitation document, the offeror's cost proposal and its technical and business proposal constitute the offer submitted to the contracting office for evaluation and acceptance. The contracting officer needs business information from the offeror to evaluate the offeror's capability and responsibility. The technical proposal, together with the offeror's pricing, is needed to select the offeror who will be awarded a contract. The Agriculture Acquisition Regulation (AGAR) (48 CFR ch. 4) prescribes the provision titled Instructions for the Preparation of Technical and Business Proposals to collect business and technical proposal information. The prescription (48 CFR 415.209(a)) and provision (48 CFR 452.215-71) (Attachment A) help an offeror preparing a proposal to address the factors on which it will be evaluated. Receipt of proposal information in a standardized format simplifies the source selection process for the Government.

2. Purpose for which information will be used. In some solicitations for products or services to be awarded by negotiation, the contracting officer asks offerors for technical and business information using the provision titled Instructions for the Preparation of Technical and Business Proposals. Information collected from each responding offeror is used by the contracting officer and technical evaluators to evaluate and determine the feasibility of the offeror's management, technical approach, and offered cost/price to provide the services and/or supplies required if awarded a contract. Selection of the contractor for award is made on the basis of this information.

3. Use of improved information technology. The provisions requiring business, cost, and technical information, along with specialized questions included by the contracting officer in the solicitation, contemplate a written response. Use of electronic commerce for solicitation and submission of offers may allow submission of this information through electronic networks. However, it is not practicable at this time to require offerors to submit this

information electronically for every solicitation. Even if submitted electronically, the information required would not change. This information collection is required for formal contract negotiation. Typically formal contract negotiation is only used if the USDA contracting office has requirements exceeding \$100,000.

4. Efforts to identify duplication. Information collected supplements, but does not duplicate, similar information collections authorized by the FAR.

5. Impact on small entities and efforts to minimize burden. The burden imposed by this information collection applies equally to large and small business offerors.

6. Program consequences if collection is not conducted or conducted less frequently. In Fiscal Year 2005, USDA awarded approximately 525 contracts over \$100,000 of the type for which submission of technical and business proposals would be appropriate. These contracts were for supplies and services with a cost of \$203,000,000 during FY 2005. Without such contracts, USDA would be unable to obtain goods and services required for its daily operations.

7. Special circumstances. There are no special circumstances that require information collection inconsistent with 5 CFR 1320.5. With respect to confidentiality, see the answer to question 10, below.

8. 5 CFR 1320.8(d) Solicitation of Comments. A 60 day Notice was published in the Federal Register on May 30, 2006, pages 30650 and 30651. No public comments were received in response to the Notice. A copy of the Notice is attached as Attachment B.

9. Payments or gifts to respondents. No payments or gifts have been, or will be, made to respondents.

10. Confidentiality. No assurance of confidentiality is included in the provision which requests the information to be collected or in the Agriculture Acquisition Regulation (AGAR). However, business, cost, and technical information provided by offerors is protected by the Trade Secrets Act (18 U.S.C. 1905), exception 4 to the Freedom of Information Act (5 U.S.C. 552(b)(4)), section 821 of the National Defense Authorization Act for 1997 (Pub. L. 104-201 sec. 821), and/or the Procurement Integrity Act (41 U.S.C. 423). The FAR, which the AGAR supplements, protects the confidentiality of business, cost and technical information by restricting the disclosure of such information (see 48 CFR subpart 3.1; 48 CFR 15.306(e)).

11. Sensitive questions. There are no sensitive questions involved in this information collection.

12. Estimation of information collection burden. Information collected is provided by businesses submitting offers for contracts awarded by negotiation. The information collected is business, technical, and cost information submitted by offerors as part of their offers. Similar information is provided by offerors in response to provisions required by or allowed by the FAR; this information collection covers only information collected in response to USDA solicitations which are not covered by OMB approvals of FAR information collections.

In USDA's 2003 justification submitted for OMB review, the burden estimate was based on 900 negotiated acquisitions over \$25,000. The estimate for the negotiated acquisitions to which the requirement for submission of technical and business proposals would apply has been refined to reflect the \$100,000 simplified acquisition threshold and to include, based on product service code designations, only those types of acquisitions to which the additional technical and business proposal requirements are generally applicable. Based on these refinements the number of affected acquisitions has been reduced to 525.

As estimated in the last justification, we estimate that 32 hours are required for each response to a request for financial, cost, and technical information in a negotiated solicitation. Our estimate does not include the time required to provide information in response to information collections authorized by the FAR.

In FY 2005 USDA agencies conducted approximately 525 negotiated acquisitions over \$100,000 of the type that would require technical and business proposals. On average, four offerors submit offers for such negotiated acquisitions. Based on the FY 2005 data, we estimate that approximately 2,100 respondents provide technical and business proposals to USDA contracting offices each year. At 32 hours per proposal, the total estimated annual burden is 67,200 hours. The estimated annualized burden hour cost to respondents is \$1,677,749, calculated as follows:

Burden hours are estimated at 75 percent professional hours and 25 percent clerical hours. Hourly Federal equivalent pay rates (January 2006) at GS 11/1 and GS 4/1 respectively were used in calculations.

Direct costs (labor):

Professional: (75% of 67,200 hrs @ \$24.90) =	\$1,254,960
Clerical: (25% of 67,200 hrs @ \$12.14) =	<u>203,952</u>
Subtotal:	\$1,458,912
Indirect Costs:	
Overhead @ 15% of direct costs	<u>218,837</u>

Total Respondent costs: \$1,677,749

13. Estimates of annualized cost to respondents (excluding burden hour costs).

(a) There are no capital or start up costs associated with this collection.

(b) There are no operation and maintenance costs associated with this collection.

Preparation of information about a business, its capacity, and the technical capability of its products is a customary and usual business practice for businesses marketing and bidding for contracts.

14. Estimates of annualized cost to the Federal Government. The estimated annual cost to the Federal Government, is \$1,543,517, calculated as follows:

Government burden is estimated as equal to the number of respondent burden hours. Burden hours are split 75 percent at an average GS-1102-10/2 and 25 percent clerical at an average GS 4/1. USDA solicitations are now available to prospective offerors electronically through a single Government-wide point of entry (FedBizOpps), thus requiring neither printing nor mailing. Labor costs attributable to the collection are estimated as follows:

Direct costs (labor):

Professional: (75% of 67,200 hrs @ 23.42) =	\$1,180,368
Clerical: (25% of 67,200 hrs @ 12.14) =	<u>203,952</u>

Subtotal:	\$1,384,320
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Indirect Costs:

Benefits @ 11.5% of direct costs	<u>159,197</u>
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Total Government costs:	\$1,543,517
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15. Reasons for changes in items 13 and 14. As discussed above, additional criteria for estimating the number of acquisitions to which the requirement for submission of technical and business proposals applies have been utilized, resulting in a reduction of estimated contracts from 900 to 525, thereby reducing the number of estimated responses (4 offers per contract) 3,200 to 2,100 and reducing the burden estimate from 115,200 hours to 67,200 hours (32 hours per response).

16. Planned publication. The results of this collection of information will not be published.

17. Expiration date on form. The requested information collection is required by solicitation provision and does not involve a form.

18. Exception(s) to certification statement. The following exceptions are noted to the certification statement:

We are able to certify compliance with all the provisions of the Act.