

# 52.212-1 Instructions to Offerors—Commercial Products and Commercial Services.

As prescribed in [12.301\(b\)\(1\)](#), insert the following provision:

Instructions to *Offerors—Commercial Products and Commercial Services* (Sep 2023)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code(s) and small business size standard(s) for this *acquisition* appear elsewhere in the *solicitation*. However, the small business size standard for a concern that submits an *offer*, other than on a *construction* or service *acquisition*, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees, or 150 employees for *information technology* value-added resellers under NAICS code 541519, if the *acquisition*—

(1) Is set aside for small business and has a value above the *simplified acquisition threshold*;

(2) Uses the *HUBZone* price evaluation preference regardless of dollar value, unless the *offeror* waives the price evaluation preference; or

(3) Is an 8(a), *HUBZone*, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(b) *Submission of offers.* Submit signed and dated *offers* to the office specified in this *solicitation* at or before the exact time specified in this *solicitation*. *Offers* may be submitted on the [SF 1449](#), letterhead stationery, or as otherwise specified in the *solicitation*. As a minimum, *offers* must show—

(1) The *solicitation* number;

(2) The time specified in the *solicitation* for receipt of *offers*;

(3) The name, address, and telephone number of the *offeror*;

(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the *solicitation*. This *may* include product literature, or other documents, if necessary;

(5) Terms of any express *warranty*;

(6) Price and any discount terms;

(7) "Remit to" address, if different than mailing address;

(8) A completed copy of the representations and certifications at Federal *Acquisition* Regulation (FAR) [52.212-3](#) (see FAR [52.212-3\(b\)](#) for those representations and certifications that the *offeror* shall complete electronically);

(9) Acknowledgment of *Solicitation* Amendments;

(10) *Past performance* information, when included as an evaluation factor, to include recent and

relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(11) If the *offer* is not submitted on the [SF 1449](#), include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the *solicitation*. *Offers* that fail to furnish required representations or information, or reject the terms and conditions of the *solicitation* may be excluded from consideration.

(c) *Period for acceptance of offers*. The *offeror* agrees to hold the prices in its *offer* firm for 30 calendar days from the date specified for receipt of *offers*, unless another time period is specified in an addendum to the *solicitation*.

(d) *Product samples*. When required by the *solicitation*, product samples shall be submitted at or prior to the time specified for receipt of *offers*. Unless otherwise specified in this *solicitation*, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

(e) *Multiple offers*. *Offerors* are encouraged to submit multiple *offers* presenting alternative terms and conditions, including alternative *line items* (provided that the alternative *line items* are consistent with FAR [subpart 4.10](#)), or alternative *commercial products* or *commercial services* for satisfying the requirements of this *solicitation*. Each *offer* submitted will be evaluated separately.

(f) Late submissions, modifications, revisions, and withdrawals of *offers*.

(1) *Offerors* are responsible for submitting *offers*, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the *solicitation* by the time specified in the *solicitation*. If no time is specified in the *solicitation*, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that *offers* or revisions are due.

(2)

(i) Any *offer*, modification, revision, or withdrawal of an *offer* received at the Government office designated in the *solicitation* after the exact time specified for receipt of *offers* is "late" and will not be considered unless it is received before award is made, the *Contracting Officer* determines that accepting the late *offer* would not unduly delay the *acquisition*; and-

(A) If it was transmitted through an *electronic commerce* method authorized by the *solicitation*, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working *day* prior to the date specified for receipt of *offers*; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of *offers* and was under the Government's control prior to the time set for receipt of *offers*; or

(C) If this *solicitation* is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful *offer*, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the *offer* wrapper, other documentary evidence of receipt

maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an *emergency* or unanticipated event interrupts normal Government processes so that *offers* cannot be received at the Government office designated for receipt of *offers* by the exact time specified in the *solicitation*, and urgent Government requirements preclude amendment of the *solicitation* or other notice of an extension of the closing date, the time specified for receipt of *offers* will be deemed to be extended to the same time of *day* specified in the *solicitation* on the first work *day* on which normal Government processes resume.

(5) *Offers may* be withdrawn by written notice received at any time before the exact time set for receipt of *offers*. Oral *offers* in response to oral *solicitations may* be withdrawn orally. If the *solicitation* authorizes facsimile *offers*, *offers may* be withdrawn via facsimile received at any time before the exact time set for receipt of *offers*, subject to the conditions specified in the *solicitation* concerning facsimile *offers*. An *offer may* be withdrawn in person by an *offeror* or its authorized representative if, before the exact time set for receipt of *offers*, the identity of the person requesting withdrawal is established and the person signs a receipt for the *offer*.

(g) *Contract award (not applicable to Invitation for Bids)*. The Government intends to evaluate *offers* and award a contract without discussions with *offerors*. Therefore, the *offeror's* initial *offer should* contain the *offeror's* best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the *Contracting Officer* to be necessary. The Government *may* reject any or all *offers* if such action is in the public interest; accept other than the lowest *offer*; and waive informalities and minor irregularities in *offers* received.

(h) *Multiple awards*. The Government *may* accept any item or group of items of an *offer*, unless the *offeror* qualifies the *offer* by specific limitations. Unless otherwise provided in the Schedule, *offers may* not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the *offeror* specifies otherwise in the *offer*.

(i) Availability of requirements documents cited in the *solicitation*.

(1)

(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of Federal specifications, standards, and product descriptions can be downloaded from the ASSIST website at <https://assist.dla.mil>.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this *solicitation*, a copy of specifications, standards, and commercial item descriptions cited in this *solicitation may* be obtained from the address in paragraph (i)(1)(i) of this provision.

(2) Most unclassified Defense specifications and standards *may* be downloaded from the ASSIST website at <https://assist.dla.mil>.

(3) Defense documents not available from the ASSIST website *may* be requested from the Defense Standardization Program Office by—

(i) Using the ASSIST feedback module ( <https://assist.dla.mil/feedback>); or

(ii) Contacting the Defense Standardization Program Office by telephone at 571-767-6688 or email at [assisthelp@dlamail](mailto:assisthelp@dlamail).

(4) Nongovernment (voluntary) standards *must* be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Unique entity identifier.* (Applies to all *offers* that exceed the *micro-purchase threshold*, and *offers* at or below the *micro-purchase threshold* if the *solicitation* requires the Contractor to be *registered in the System for Award Management (SAM)*.) The *Offeror* shall enter, in the block with its name and address on the cover page of its *offer*, the annotation "*Unique Entity Identifier*" followed by the *unique entity identifier* that identifies the *Offeror's* name and address. The *Offeror* also shall enter its *Electronic Funds Transfer (EFT) indicator*, if applicable. The EFT indicator is a four-character suffix to the *unique entity identifier*. The suffix is assigned at the discretion of the *Offeror* to establish additional SAM records for identifying alternative EFT accounts (see FAR [subpart 32.11](#)) for the same entity. If the *Offeror* does not have a *unique entity identifier*, it *should* contact the entity designated at [www.sam.gov](http://www.sam.gov) for *unique entity identifier* establishment directly to obtain one. The *Offeror* *should* indicate that it is an *offeror* for a Government contract when contacting the entity designated at [www.sam.gov](http://www.sam.gov) for establishing the *unique entity identifier*.

(k) [Reserved]

(l) *Debriefing.* If a post-award debriefing is given to requesting *offerors*, the Government *shall* disclose the following information, if applicable:

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed *offeror's* *offer*.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed *offeror* and *past performance* information on the debriefed *offeror*.

(3) The overall ranking of all *offerors*, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award;

(5) For *acquisitions of commercial products*, the make and model of the product to be delivered by the successful *offeror*.

(6) Reasonable responses to relevant questions posed by the debriefed *offeror* as to whether source-selection procedures set forth in the *solicitation*, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

**Parent topic:** [52.212 \[Reserved\]](#)