

## 15.609 Limited use of data.

(a) An *unsolicited proposal* may include data that the *offeror* does not want disclosed to the public for any purpose or used by the Government except for evaluation purposes. If the *offeror* wishes to restrict the data, the title page *must* be marked with the following legend:

### *Use and Disclosure of Data*

This proposal includes data that *shall* not be disclosed outside the Government and *shall* not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate this proposal. However, if a contract is awarded to this *offeror* as a result of or in connection with the submission of these data, the Government *shall* have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in these data if they are obtained from another source without restriction. The data subject to this restriction are contained in Sheets [*insert numbers or other identification of sheets*].

(b) The *offeror shall* also mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(c) The agency point of contact *shall* return to the *offeror* any *unsolicited proposal* marked with a legend different from that provided in paragraph (a) of this section. The return letter will state that the proposal cannot be considered because it is impracticable for the Government to comply with the legend and that the agency will consider the proposal if it is resubmitted with the proper legend.

(d) The agency point of contact *shall* place a cover sheet on the proposal or clearly mark it as follows, unless the *offeror* clearly states *in writing* that no restrictions are imposed on the disclosure or use of the data contained in the proposal:

### *Unsolicited Proposal-Use of Data Limited*

All Government personnel *must* exercise extreme care to ensure that the information in this proposal is not disclosed to an individual who has not been authorized access to such data in accordance with FAR 3.104, and is not duplicated, used, or disclosed in whole or in part for any purpose other than evaluation of the proposal, without the written permission of the *offeror*. If a contract is awarded on the basis of this proposal, the terms of the contract *shall* control disclosure and use. This notice does not limit the Government's right to use information contained in the proposal if it is obtainable from another source without restriction. This is a Government notice, and *shall* not by itself be construed to impose any liability upon the Government or Government personnel for disclosure or use of data contained in this proposal.

(e) Use the notice in paragraph (d) of this section solely as a manner of handling *unsolicited proposals* that will be compatible with this subpart. However, do not use this notice to justify withholding of a record, or to improperly deny the public access to a record, where an obligation is imposed by the Freedom of Information Act (5 U.S.C. 552). An *offeror should* identify trade secrets, commercial or financial information, and privileged or confidential information to the Government (see paragraph (a) of this section).

(f) When an agency receives an *unsolicited proposal* without any restrictive legend from an

educational or nonprofit organization or institution, and an evaluation outside the Government is necessary, the agency point of contact *shall*-

(1) Attach a cover sheet clearly marked with the legend in paragraph (d) of this section;

(2) Change the beginning of this legend to read "All Government and non-Government personnel \* \* \*"; and

(3) Require any non-Government evaluator to agree *in writing* that data in the proposal will not be disclosed to others outside the Government.

(g) If the proposal is received with the restrictive legend (see paragraph (a) of this section), the modified cover sheet *shall* also be used and permission *shall* be obtained from the *offeror* before release of the proposal for evaluation by non-Government personnel.

(h) When an agency receives an *unsolicited proposal* with or without a restrictive legend from other than an educational or nonprofit organization or institution, and evaluation by Government personnel outside the agency or by experts outside of the Government is necessary, written permission *must* be obtained from the *offeror* before release of the proposal for evaluation. The agency point of contact *shall*-

(1) Clearly mark the cover sheet with the legend in paragraph (d) or as modified in paragraph (f) of this section; and

(2) Obtain a written agreement from any non-Government evaluator stating that data in the proposal will not be disclosed to persons outside the Government.

**Parent topic:** [Subpart 15.6 - Unsolicited Proposals](#)