

Subpart 17.8 - Reverse Auctions

Parent topic: [Part 17 - Special Contracting Methods](#)

17.800 Scope of subpart.

This subpart prescribes policies and procedures for conducting reverse auctions and utilizing reverse auction service providers.

17.801 Definitions.

As used in this subpart—

Government data means any information, document, media, or machine-readable material regardless of physical form or characteristics, that is created or obtained by the Government, in the course of official Government business.

Government-related data means any information, document, media, or machine-readable material regardless of physical form or characteristics that is created or obtained by a contractor through the storage, processing, or communication of Government data. This does not include a contractor's business records (*e.g.*, financial records, legal records, etc.) or data such as operating procedures, software coding, or algorithms that are not uniquely applied to the Government data.

Reverse auction service provider means a commercial or Government entity that provides a means for conducting reverse auctions when acquiring supplies or services to be used by the Government.

17.802 Policy.

(a) The use of reverse auctions may be appropriate when market research indicates that—

(1) A competitive marketplace exists for the supplies and/or services being acquired;

(2) Multiple offerors can satisfy the agency's requirement; and

(3) The nature of the supplies and/or services being acquired (*e.g.*, clearly defined specifications, less complex requirements) encourages an iterative bidding process (*i.e.*, multiple offerors participate and at least one offeror submits more than one offer during the reverse auction).

(b) The reverse auction process is used to obtain pricing for an acquisition. When using the reverse auction process, contracting officers are still required to follow the acquisition policies and procedures (*e.g.*, those prescribed in subpart 8.4 or 16.5, or part 13 or 15), as appropriate for the particular acquisition.

(c)

(1) A service platform for conducting reverse auctions may be provided by a commercial or

Government entity.

(2) While some reverse auction service providers are paid directly by the Government for reverse auction services, other providers may incorporate a fee structure that uses an indirect payment method. When using an indirect payment method, the reverse auction service provider adds a fee(s) to the price of the successful offer that is provided to the Government at the close of an auction. The Government then pays the successful offeror the total price of the offer, which includes the fee(s) added by the reverse auction service provider. The reverse auction service provider then collects its fee(s) from the successful offeror.

(3) When acquiring reverse auction services from a commercial reverse auction service provider, agencies shall—

(i) Use competitive procedures, unless an exception applies;

(ii) Detail the provider's fee structure in the resultant contract or agreement for reverse auction services; and

(iii) Make the details of the contract or agreement for reverse auction services, including the provider's fee structure, available to contracting officers for consideration when determining whether to use a reverse auction service provider, in accordance with [17.804\(a\)](#).

(4) When acquiring reverse auction services, the contracting officer shall ensure the following information is provided in the solicitation and contract:

(i) Descriptions of Government data and Government-related data.

(ii) Data ownership, licensing, delivery, and disposition instructions specific to the relevant types of Government data and Government-related data (*e.g.*, DD Form 1423, Contract Data Requirements List; work statement task; line item). Disposition instructions shall provide for the transition of data in commercially available, or open and non-proprietary format and for permanent records, in accordance with disposition guidance issued by the National Archives and Records Administration.

(d) Contracting officers shall only use the services of a reverse auction service provider that—

(1) Does not assert or imply that it can or will obtain a Government contract for participants of a reverse auction;

(2) Allows entities to register, at no cost, as potential offerors for reverse auctions conducted on behalf of the Government on the provider's reverse auction platform;

(3) Allows each entity, as part of the registration process, the opportunity to execute a proprietary data protection agreement with the provider; provided that the terms in the agreement do not affect the terms and conditions of a Government solicitation or contract;

(4) Protects from unauthorized use or disclosure and does not release outside of the Government—

(i) All contractor bid or proposal information (see [3.104-1](#)) and source selection information associated with providing reverse auction services to the Government;

(ii) All information similarly generated to support the issuance of a task order or delivery order or order under a blanket purchase agreement; and

(iii) Information identified by an offeror as restricted from duplication, use, or disclosure—in whole or in part—for any purpose other than to evaluate the reverse auction participant's price or proposal;

(5) Allows offerors to see the successive lowest price(s) offered in the auction without revealing an offeror's identity;

(6) At the close of each auction—

(i) Provides the Government with the successful offer, along with information that separately identifies the offeror's price and the price for each provider fee or charge included in the total price; and

(ii) Provides the Government with all information and documentation received from offerors in response to the reverse auction.

(7) Does not participate as an offeror in any reverse auction which the provider is hosting on behalf of the Government. This prohibition includes participation in a reverse auction by any entity with which the provider has a relationship that raises an actual or potential conflict of interest; and

(8) Asserts no rights or license in the data gathered or generated during a reverse auction.

(e) Only a contracting officer shall—

(1) Exclude an offeror from participating in an auction;

(2) Determine the awardee(s) of any reverse auction; or

(3) Determine that the offeror is a responsible prospective contractor (see [9.103](#), [9.104-1](#), and [9.405\(d\)](#)).

17.803 Applicability.

Reverse auction processes shall not be used for—

(a) Design-build construction contracts (see [36.104](#));

(b) Procurements for architect-engineer services subject to [40 U.S.C. chapter 11](#) (see [36.601](#));

(c) Procurements using sealed bidding procedures (see part 14); or

(d) Acquisition of personal protective equipment, in accordance with—

(1) Sections 813 and 814 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 ([Pub. L. 114-328](#));

(2) Section 882 of the NDAA for FY 2018 ([Pub. L. 115-91](#)); and

(3) Section 880 of the John S. McCain NDAA for FY 2019 ([Pub. L. 115-232](#), [41 U.S.C. 3701 note](#)).

17.804 Procedures.

(a) When considering the use of a reverse auction service provider, the contracting officer shall—

(1) Conduct market research for available sources of reverse auction services (*e.g.*, existing agency contracts or agreements, commercial service providers, or Government service providers);

(2) Evaluate the fee structure for each reverse auction service provider; and

(3) Document the contract file that the use of a reverse auction service provider is cost effective.

(b) When conducting a reverse auction, the contracting officer shall—

(1) Not disclose the identity of the offeror(s) except for the awardee's identity subsequent to an award resulting from the auction (see 3.104-4(a) and (e)(1));

(2) Allow offerors the opportunity to continually revise their prices downward during the reverse auction until the close of the auction; and

(3) Allow an offeror to withdraw an offer from further consideration prior to the close of an auction.

(c) When using the services of a reverse auction service provider, contracting officers shall—

(1) Include contact information, including contracting officer name and email address, in the synopsis and solicitation that will allow offerors to contact the contracting officer directly with any questions;

(2) Upon receipt of a successful offer, verify that any provider fees or charges included in the price are in accordance with the provider's fee structure, as evaluated in accordance with paragraph (a)(2) of this section; and

(3) Include in the contract file any information and/or documentation received by the reverse auction service provider from offerors responding to the reverse auction.

(d) If only one offeror participates in an auction, the contracting officer may—

(1) Cancel the auction and document the contract file with evidence of the participation of only one offeror; or

(2) Accept the offer, only if the price is determined to be fair and reasonable (see 13.106-3(a)(2) and 15.404-1).

17.805 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the provision at 52.217-10, Reverse Auction, in solicitations when using a reverse auction to award a contract or blanket purchase agreement.

(b) The contracting officer shall insert the clause at 52.217-11, Reverse Auction—Orders, in solicitations and contracts for a multiple-award contract or blanket purchase agreement, when a reverse auction may be used to place orders under the basic contract or blanket purchase

agreement.

(c)The contracting officer shall insert the clause at [52.217-12](#), Reverse Auction Services, in all solicitations and contracts for the purchase of reverse auction services.