

QUESTIONS AND ANSWERS FOR IFBs 39-4603, 39-4006, 39-4604, and 39-4608 16 Dec 2014

Note: The following questions were presented to the Sales Contracting Officer (SCO) about the Invitation For Bid (IFB) for sales: 39-4603, 39-4006, 39-4604, and 39-4608. They are being posted so all potential bidders have access to the same information.

GENERAL QUESTIONS:

Q1 - Can you explain why the current IFB has a performance period of twelve months with two (2) twelve month options and the current contract only was awarded with a twelve month performance period?

DLA DISPOSITION SERVICES ANSWER: DLA DS manages contract performance periods by what best serves the agency based on the mission and operational requirements known at the time of the offering and our best prediction of future scrap removal requirements. It is not uncommon for terms and conditions of a new contract to change significantly from what is in operation currently. When developing new or replacement IFBs, we review the outcomes of previous contracts, solicit feedback from our personnel on the ground, and adjust any terms and conditions based on that experience and knowledge. This is an iterative process by which our goals are to continually improve, enhance, and gain efficiencies in operations and processes on the ground and in how we offer sales and administer them. Adding option years to our term sales is a best business practice and very common in our term sales to improve stability, maintain velocity, and ensure smooth and efficient operations on the ground.

Q2 - Our company is very interested in submitting bids for other locations in addition to Kuwait. The Kuwait, Bahrain and UAE bid openings are all scheduled on the same date and time. which presents a business challenge. We request that the bid opening for each location be changed to different dates. This change will allow our company to adjust our business strategy based on the results of each bid. Thank you for considering our request.

DLA DISPOSITION SERVICES ANSWER: DLA Disposition Services (DS) sets bid opening dates (BOD) for sales based on mission needs and requirements. The BOD schedule coincides with establishing new contracts to prevent a lapse in removals. As a matter of best business practice for term scrap sales, BOD is set in advance of a contract expiring so the new contract will be operational with little to no gap in removal coverage. DLA DS does not set or change bid opening dates based on requests from potential bidders or their ability to formulate strategy or bids. The Invitation for Bid (IFB) documents are posted in advance of the BOD and all potential bidders have the same opportunity to prepare and submit bids.

FOREIGN ATTACHMENTS AND OTHER DEBRIS:

Q1 - How did the Government arrive at the percentage? Why is it set so high?

DLA DISPOSITION SERVICES ANSWER: The 30% is an estimate based on historical knowledge and experience of scrap removals. The content within scrap piles changes from day-to-day based on what is received and removed for disposal. It is impossible to predict or calculate with 100% certainty the exact percent of foreign attachments and other debris that is in each truckload removed. Our experience is most removals average between 10-15% debris due to the environment and available loading methods. Occasionally debris levels up to 30% have occurred. DLA DS advises buyers to consider that up to 30% of the weight they remove may be foreign attachment and debris.

The purpose of this IFB section is to make all prospective buyers aware that the scrap they will receive is not purely metallic and it will contain up to 30% debris. This is a naturally occurring part of the scrap pile due to the very nature of the business. Buyers are cautioned that they should expect removals will contain materials which the buyer may find less desirable than the metallic content. No reductions in weight will take place at the scale house or after removal from premises as a result of this estimate for foreign attachments and debris. Some removals may contain less than 30% debris. However, the buyer must factor the presence of these foreign attachments and debris into his/her bid price for the line item. The government is advising buyers to expect up to 30% of the removal weight to be foreign attachments and debris for consideration in formulating their bids.

Q2 - How will the Government determine the percentage for each load? What will be the Governments' method for determining the percentage and that it is within the range identified in the IFB?

DLA DISPOSITION SERVICES ANSWER: See answer to Q1, above. Again, NO reductions in weight removals will be made when the scrap is weighed or after removal to accommodate the presence of foreign attachments or debris. The buyer must factor the presence of these foreign attachments and debris into his/her bid price for the line item. Once the buyer leaves our premises, the government will not make any adjustments to weight removed for any reason.

Q3 - How will the Government verify this percentage prior to the sales contractor arriving to remove the load? How will the SCO adjudicate any dispute related to the percentage prior to removal?

DLA DISPOSITION SERVICES ANSWER: See answers to Q1 and Q2, above. There is no requirement for the government to verify the percentage prior to the buyer performing the removal. Buyers are cautioned up front, before they place their bid, that every removal may contain up to 30% debris. The Government has no intent of measuring the foreign attachment and debris contained in each scrap removals. If the buyer believes that a particular load contains more than 30%, they should bring that to the attention of the locally designated representative before removal so it can be resolved at that time. No reductions in weight removals will be made when the scrap is weighed or after removal to accommodate the presence of foreign attachments or debris. After the buyer removes the property, if they believe the property was mis-described, the buyer reserves the right to immediately notify the SCO and present a request for claim. The buyer bears the burden of demonstrating and proving that the property contained in the removal was mis-described.

Q4 - Based on the minimum/maximum estimates for item #1 for example the 30% percent equates to 3000 pounds of the minimum estimated 10,000 pounds and 45,000,000 pounds of the maximum estimated 150,000,000 pounds. Since this is a competitive bid, how does the Government expect our company and other bidders to use this information when preparing a bid? Is it the Governments' intent by providing this information that our company that we should submit higher bid price to make up for non-valuable foreign objects? Would this not create a situation where there is more question and increased pricing and performance risk. Does the Government expect our company to pay the same unit price for dirt, plastic, etc. as we would for the actual commodity with no ability to recover these monies other than by filing a request for equitable adjustment after each load is removed?

DLA DISPOSITION SERVICES ANSWER: DLA DS expects prospective bidders to consider all the factors outlined in the IFB and impact to their own operations when preparing their bids. DLA DS does not serve in an advisory capacity for directing how companies use the information to calculate their bids. All buyers are provided with the same IFB information so it is a level playing field and each company must determine for themselves how to apply the information contained in the IFB to their company practices in formulating their bid. If a company determines the contract terms as written are not profitable for them, they should not bid on it. If a company that is awarded the contract finds it is not profitable or beneficial to their company, they may terminate the contract in accordance with the "PF" term in the IFB. With regard to whether the expectation is for the company to "...pay the same unit price for dirt, plastic, etc., as we would for the actual commodity with no ability to recover these monies...", please refer to answers in Q1-Q3 for information on debris estimate. The government expects prospective buyers to consider and factor the presence of these foreign attachments and debris into his/her bid price for the line item.

Q5 - How will the Government determine the correct firm is awarded the contract since bidding can be skewed due to the high percentage of materials anticipated other than the commodity identified by the item description?

DLA DISPOSITION SERVICES ANSWER: Contract awards are based on the highest responsive and responsible bid(s). All potential bidders have been made aware of the expected performance, terms and conditions, and requirements of the contract through the IFB. This includes providing information as to the government's estimate regarding 30% debris level. The government is advising buyers to expect up to 30% of the removal weight to be foreign attachments and debris. The buyer must factor the presence of foreign attachments and debris into his/her bid price for the line item and in accordance with their own business practices.

Q6 - If this remains in the IFB, how will our company or any sales contractor challenge the percentage of foreign attachments and other debris since the IFB states there will be no changes after removal?

DLA DISPOSITION SERVICES ANSWER: The IFB is in final format. If a company that is awarded the contract finds it is not profitable or beneficial to their company, they may terminate the contract in accordance with the "PF" term in the IFB. Buyers are cautioned, up front before they place their bids, that the scrap removal may contain up to 30% debris. The government acknowledges that there may be unique circumstances that occasionally occur during a removal that cause the amount of debris to exceed 30%. These circumstances will be rare and cannot be factored into the IFB. Should this situation occur during performance of the contract, the buyer is responsible for coordinating with the appointed government representative on the ground to reach an agreed upon solution to resolve the matter before the scrap is removed from the premises. These instances and their resolution will be documented by the government representative and sent to the SCO. Should repeated disagreements occur that make the contract administratively burdensome or create problems that impact mission and operations of the field office, the government may take further action up to and including termination of the contract in accordance with article "PF" of the IFB.

Q7 - From a fair and equitable viewpoint, do you believe it is reasonable or proper to ask any company bidding on this IFB to price an item higher and potentially lose the bid to offset the Government's inability to accurately manage its inventory?

DLA DISPOSITION SERVICES ANSWER: It is a fair and equitable process to provide all prospective bidders with the same information for consideration in determining their bid prices. The 30% debris estimation is not a result of the government's inability to accurately manage its inventory; it is a result of the operating conditions on the ground and the nature of the scrap business. The material content of scrap piles changes from day-to-day based on what is received and removed for disposal. It is impossible to predict or calculate with 100% certainty the exact percent of foreign attachments and other debris that is in each truckload removed.

MULTIPLE AWARDS

Q1 - Other than to ensure minimums are met for each sales contractor, under what circumstances will the Sales Contracting Officer acting in the "best" interest of the United States Government sale property for less than available through a contract awarded to a responsive, responsible company which submitted a higher purchase price?

DLA DISPOSITION SERVICES ANSWER: The IFB section titled "Multiple Awards" provides the answers to this question. The obligation with regard to projected volumes of scrap stated in the IFB is for DLA DS to ensure the minimum is met for each sales buyer. DLA DS recommends all prospective bidders familiarize themselves with this section of the IFB. As paraphrased from this section of the IFB, the SCO retains the discretion to assign purchasers to remove based on mission requirements. In doing so he may consider contractor performance, location, contractor capabilities or equipment, payment status, and other factors. The government does not imply or in any way convey any special right to any purchaser that they will be the primary removal company or exclusively allowed to remove throughout the term of this contract. It is not the Government's intent, nor should firms awarded a term scrap sales contract assume, that they will receive volumes of scrap the same as or similar to that tendered to any other particular offeror. No one contractor is entitled to or should expect to receive the same types and/or volumes of scrap as any other contractor. The Government's mission requirements, locations serviced, and operations tempo are subject to change and the primary focus of the SCO and/or site leads when ordering scrap removal is to ensure consistent operations and that the Government's mission is met without delay or impact. Given these mission requirements, the SCO shall have unrestricted discretion to assign removals in any manner needed to ensure accomplishment of the Agency's mission requirements. The Government does not warranty or guarantee a buyer will receive any scrap volumes more than the stated minimum in the IFB.

Q2 - If the SCO is tasked with operating in the best interest of the United States Government, when there has been no formal documentation of the contractor's failure in any of the areas identified in this section, what are the specific reasons that the SCO would sale United States Government property for less? What are the parameters of these decisions? What process exist in the Sales Contracting Office to ensure the decision is proper and approved?

DLA DISPOSITION SERVICES ANSWER: The IFB section titled "Multiple Awards" provides the answers to this question. To paraphrase from this section, the SCO retains the discretion to assign purchasers to remove based on mission requirements. In doing so s/he may consider contractor performance, location, contractor capabilities or equipment, payment status, and other factors. Submitting the highest bid price (aka highest bidder), does not convey any special right nor does it imply that the purchaser will be the primary removal company or exclusively allowed to remove throughout the term of this contract. Although the bid prices of the highest responsive and responsible buyers are the main factors in making contract awards, meeting the operational and mission parameters of the site for removal is of the highest priority when arranging for removal of scrap during performance of the contract. The SCOs are trained and warranted to execute and administer contracts on behalf of the government. Given these mission requirements, the SCO shall have unrestricted discretion to assign removals in any manner needed to ensure accomplishment of the Agency's mission requirements.

MINIMUM/MAXIMUM AMOUNTS

Q1 - FAR 16.504 Indefinite-Quantity Contracts states that the contracting officer should establish a reasonable maximum quantity based on market research, trends on recent contracts for similar supplies or services, survey of potential users, or any other rational basis. On what basis was the maximum established?

DLA DISPOSITION SERVICES ANSWER: FAR contract requirements related to IDIQ do not apply to sales contracts. The maximum cited in the IFB is set at a very high level in order to accommodate potential surges in operational and mission needs for disposal of scrap. To paraphrase from IFB section titled "Minimum/Maximum Amounts", the estimated generation for this item is within the minimum and maximum amounts advertised. The specific amounts are unknown as this is a sales contract for future generation of scrap. The generation for this item will fluctuate due to dependence on operational aspects of the worldwide USG mission. Bidders awarded a term scrap sales contract should not assume that they will receive volumes of scrap the same as or similar to that tendered to any other particular offeror. Bidders are advised that removals may vary and the only quantity the USG guarantees a buyer will receive/remove is the stated minimum. This contract term and process has always been the standard practice and execution for all scrap sales term contracts. If a company determines the contract terms as written are not profitable for them, they should not bid on it. If a company that is awarded the contract finds it is not profitable or beneficial to their company, they may terminate the contract in accordance with the "PF" term in the IFB.

Q2- To ensure that the contract is binding, the minimum quantity must be more than a nominal quantity, but it should not exceed the amount that the Government is fairly certain to order. What is the basis for the small minimum which 0.00067 percent of the maximum? Would not a reasonable person view a minimum that is less than one percent of the maximum as nominal?

DLA DISPOSITION SERVICES ANSWER: The minimum and maximum volume projections are not a factor in determining if the contract is binding. The contract is binding when the SCO is in receipt of a signed bid that is responsive, responsible, determined to be a high bidder, and the contract (DRMS Form 1427) is awarded and signed by the SCO. As previously stated in Q1 of this section, the specific amounts are unknown as this is a sales contract for future generation of scrap. The generation for these items will fluctuate due to dependence on operational aspects of the USG mission. Bidders awarded a term scrap sales contract should not assume that they will receive volumes of scrap the same as or similar to that tendered to any other particular offeror. Bidders are advised that removals may vary and the only quantity the USG guarantees a buyer will receive/remove is the stated minimum.