

Date: April 3, 2012

From: Deputy Assistant Secretary for Acquisition and Logistics (003A) and Senior Procurement Executive

Subj: Updated Policy and Procedures for Using Reverse Auctions (VAIQ 7220215)

To: Heads of Contracting Activities and VA Warranted Contracting Officials

1. This memorandum provides specific guidance for Department of Veterans Affairs (VA) warranted contracting officials regarding the use of reverse auctions. Reverse auctions above the \$3,000 micro-purchase limit shall be awarded only by warranted contracting officials to ensure that reverse auctions are awarded in compliance with Federal Acquisition Regulation (FAR) and Veterans Affairs Acquisition Regulations (VAAR) guidance.
2. This memorandum supersedes Information Letter (IL) 049-03-11, Using Reverse Auctions to Acquire Goods and Services, dated June 9, 2003, and all supplementary agency guidance issued pertaining to reverse auctions.
3. Using reverse auctioning techniques to obtain bid prices from vendors can prove beneficial and cost-effective. Reverse auctions are Web-based transactions where vendors bid down prices for the goods that the Government wishes to buy. Reverse auctioning techniques can and should be used where appropriate.
4. The reverse auction concept works well when the acquisition requirements are simple and the buyer is looking for the Lowest Price Technically Acceptable (LPTA) offer. Selection criteria beyond LPTA would indicate that the requirements are too complicated to ensure that cost savings and acceptable quality would be obtained through the reverse auction method. All reverse auction awards shall be made on a competitive basis. If only one bid is received, contracting officials shall ensure the file is documented. For the purposes of determining price reasonableness, contracting officials shall ensure the file is documented in accordance with FAR Part 13 or Part 15 as applicable. For actions awarded under FSS or GWAC programs, contracting officials must comply with FAR Part 8 or agency specific ordering provisions.
5. VA Acquisition Policy IL 049-07-06 and Acquisition Flash 11-06 require that the Electronic Contract Management System (eCMS) be used for acquisitions over \$3,000.00 and is the system of record for the VA. Therefore, all reverse auction award documents (pre and post-award) shall be generated in eCMS or placed in the eCMS briefcase function within the solicitation/contract folder of the same number. The data values section of eCMS shall also be completed.

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6. Mandatory and priority sources, as provided in FAR Section 8.002 shall be used and may be used in conjunction with the reverse auction procurement method where appropriate. The order of priority for Government supply sources, as provided in Veterans Affairs Acquisition Regulation (VAAR) Part 808.002, shall be followed. Mandatory and priority sources include, but are not limited to AbilityOne®, GSA BPA for Office Supplies, VA National Acquisition Center (NAC) National Committed Use Contracts, Mandatory NAC Federal Supply Schedule (FSS) Contracts, and VA Prime Vendors, etc. Warranted contracting officials are responsible for ensuring that a determination is completed and documented in the procurement file that mandatory and priority sources cannot meet their needs before they seek sources on the open market using reverse auction techniques. Reverse auctions may be used to compete among mandatory or priority sources such as FSS contracts (provided responses are limited only to FSS contractors.) Warranted contracting officials are responsible for ensuring that a review of FSS contract prices is conducted prior to awarding a reverse auction among FSS vendors and shall not pay more than the FSS contract price for the items.

7. If you intend to issue a competitive request for quotations for an FSS purchase, you may consider using the General Service Administration's (GSA) e-Buy Web site where appropriate. Although not a reverse auction site, the e-Buy site allows you to compete among FSS contract holders at a nominal fee charged to agencies to use e-Buy. The e-Buy site may offer an inexpensive way to obtain reductions from basic FSS contract prices.

8. Contracting officials shall develop a procurement strategy and conduct market research relative to funding and anticipated pricing as well as be cognizant of socioeconomic set-aside considerations. FAR 19.502-2 (a) states: "Each acquisition of supplies or services that has an anticipated dollar value exceeding \$3,000, but not over \$150,000 is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the Contracting Officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery." Contracting officials should follow VAAR 819.70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Acquisition Program when using reverse auctioning.

9. Contracting officials should make maximum use of the Internet to locate a minimum of two to three (or more) capable sources and substantiate requestor estimates compared to probable market pricing (e.g. VIP; CCR.gov; SBA.gov; GSA Advantage Search/eLibrary; and Google Shopping).

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10. Contracting officials shall follow the FAR and VAAR when using a reverse auction in their procurement strategy.

a. For proposed acquisitions between the micro-purchase level and \$25,000, FAR 13.104 requires that quotations be sought from at least three sources to promote competition to the maximum extent practicable.

b. For proposed acquisitions between \$15,000, but not expected to exceed \$25,000, FAR Subpart 5.101(a)(2) requires that solicitations must remain posted for at least 10 days or after quotations have been opened, whichever is later.

c. For open market acquisitions exceeding \$25,000, the requirement shall be synopsisized in FedBizOpps (www.fbo.gov) in accordance with FAR Subpart 5.203.

d. The VA Forecast of Procurement Opportunities has replaced the BOS system mentioned in IL 049-03-11 (Reverse Auctions). The VA Forecast of Procurement Opportunities is automatically populated from eCMS after answering yes to the FCO data field for requirements over \$25,000 at the time of the requirement's publication. Requiring activities shall complete the acquisition planning module which in the course of completing the acquisition plan populates the procurement forecast.

11. To ensure that the Department is meeting all FAR and VAAR requirements when engaging in reverse auctions, it is imperative that each Head of Contracting Activity (HCA) develop internal controls (including mandatory training and reverse auction file reviews) and develop standard operating procedures to establish oversight of reverse auction procurements. Additionally, each HCA shall ensure that the savings realized through the usage of the reverse auction technique are auditable and transparent, independent of any reverse auction service provider. HCAs shall ensure savings are captured, analyzed, available and reportable. Each award file shall be documented with the (auditable) savings realized through the usage of reverse auction techniques as well as the reverse auction fee paid.

12. Utilizing the reverse auction procurement technique does not preclude VA's acquisition professionals from executing their responsibilities as warranted contracting officials, including documenting the solicitation and award process in the award file. Contract file documentation shall include (at a minimum), the procurement requirements; an independent government estimate (IGE); market research results; a price reasonableness determination; vendor quotes or submissions that validate that competition occurred; brand name justifications (where applicable); and documentation that the vendor has met all contractor responsibility qualifications in accordance with FAR Part 9, Subpart 9.104-5.

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13. When using reverse auction techniques, offerors shall be advised that, by agreeing to participate in the reverse auction, they agree to allow their bid prices, but not their identities, to be revealed to other offerors. In addition, if you intend to restrict offers to those received via a reverse auction Web site, you shall notify potential offerors of that fact and provide guidance on how to participate in the reverse auction. If a contractor expresses interest in a procurement but elects not to register with the reverse auction service provider, the procurement official shall consider using another method of procurement.

14. Options available for conducting reverse auctions include using a contractor to host your auctions or purchasing software and conducting your own in-house auctions. FSS contracts under Federal Supply Classification (FSC) Group 70, Special Item Number (SIN) 132-52; include contractors that offer reverse auction services or software (see <http://www.gsa.gov/portal/content/188085#132-52>) GSA's Federal Technology Service has awarded contracts for reverse auction services that may be used (see <https://www.gsaadvantage.gov/advantage/s/search.do?q=0:0reverse> auction). Also, other Federal agencies have awarded reverse auction contracts that may be used for a fee under an Economy Act agreement.

15. The cost to conduct a reverse auction may be a percentage of the transaction, either paid by the Government or by the seller, a percentage of the savings, or a flat fee. Warranted contracting officials should seek out a contractor that best meets their needs on a competitive basis in accordance with Subpart 8.4 of the FAR or other applicable FAR parts. Even if a contractor offers to provide services at no cost to the Government (instead, charging a fee to the seller), selection of the firm you intend to use shall be on a competitive basis. The Government cannot convey a benefit to one company (by using its services at no direct cost to the agency) on a non-competitive basis without justification. The projected amount of fees involved, either as a direct cost to the Government as fees you pay to the Web service provider or as an indirect cost to the Government as fees paid by the vendor (and incorporated into the cost of the goods or services purchased), shall be taken into consideration when selecting a Web service provider.

16. Should you have questions or concerns related to the updated policy and procedures for using reverse auctions, please contact Ms. Marilyn Harris, Director, Acquisition Policy Service, at (202) 461-6929, or via e-mail at: marilyn.harris2@va.gov.

/s/Jan R. Frye