

only those judged to be the most viable will commit the resources to fully participate. USPTO intends to have an open interchange with industry about USPTO potential requirements and contractor capabilities long before any formal solicitation is issued. It is the policy of the USPTO to inform all firms of opportunities and seek to ensure only the most viable will need to commit resources to fully participate.

Where justifications for limiting competition are prepared, they will be approved at the following levels:

- a. Justifications of procurements \$1,000,000 or less will be approved by the Contracting Officer.
- b. Justifications over \$1,000,000 and less than \$10,000,000 will be approved by the Director, Office of Procurement.
- c. Justifications greater than \$10,000,000 will be approved by the Agency Competition Advocate.

#### *Simplified Acquisition Procedures*

Competitive quotations need not be sought for purchases under \$5,000 provided that the Contracting Officer can readily determine the price to be fair and reasonable. Written solicitations should only be utilized when appropriate given the complexity of the requirement.

The USPTO contracting officer may use procedures similar to those set forth at subpart 13.5 of the FAR for acquisitions of commercial items not in excess of \$10 million.

#### *Alternative Streamlined Contracting Approach*

The Contracting Officer may utilize the streamlined process described below to solicit offers. The characteristics of this process include:

- a. Early identification of the most highly qualified contractors;
- b. Establishing a pre-set number of firms for the competitive range to limit the investment of contractor time and resources and to reduce the administrative burden of the procurement process; and
- c. Conducting negotiations only where it is practical and efficient to do so and without the requirement for a common cut-off date for concluding negotiations.

The USPTO intends to use a project team to conduct acquisitions under the alternative streamlined contracting approach. The project team will be a multi-disciplinary team that consists of a warranted contracting officer, representatives from the program office whose requirement is the subject of the procurement, the Office of Corporate Planning, and the Office of the General Counsel. The project team will possess

the necessary authority needed to conduct all aspects of the acquisition. No further approvals will be required to conduct the acquisition.

The Alternative Streamlined Contracting Process is conducted as follows:

- a. A project team conducts all aspects of the acquisition.
- b. The team employs strategies and methods that best fulfill the needs of the acquisition.
- c. When using the streamlined Alternative Streamlined Contracting Approach, USPTO may employ announcements of opportunities rather than announcement of individual actions over \$25,000.
- d. Initially, a high-level solicitation document is used. It should solicit basic and essential information such as offeror qualifications, broad-based product data, proposed technical concept, past performance, and pricing. The solicitation document will typically consist of:
  1. Information on goals and objectives of the requirement,
  2. Specific procedures related to conducting the acquisition,
  3. Instructions to offerors on preparing a response,
  4. Information on how responses will be evaluated,
  5. Budget information on the value of the acquisition, where appropriate, and
  6. Project and acquisition timeframes and schedules.
- e. A competitive range will be established after initial evaluation of responses. Respondents judged as not being among the most highly rated will be eliminated from further consideration.

f. After establishment of the competitive range, a detailed Statement of Need is issued to solicit additional information and obtain a more complete offer from all firms. The Statement of Need will incorporate the principles of performance-based contracting to permit offerors the opportunity to propose the best solution to meet the USPTO's needs.

g. Oral presentations may be used. The Contracting Officer should maintain an adequate record of oral presentations.

Based on responses to the Statement of Need, the Contracting Officer may negotiate or conduct discussions only with the highest ranked offeror based on the evaluation factors set forth in the solicitation. If the USPTO Contracting Officer is unable to reach agreement with this offeror, negotiations will be initiated with the next highest-ranked firm. This process will continue until those firms remaining in the competitive range have been

considered. If agreement cannot be reached, negotiations may be reopened with all firms in the competitive range or the solicitation may be canceled.

#### *Selecting Contract Types*

Where appropriate, the USPTO may use any contract type (e.g., fixed price or labor hour) provided for in the FAR without regard to any limitations specified therein, and in addition may use hybrid or other contract types not provided for in the FAR.

#### *Indefinite-Delivery Contracts*

Because it is exempt from the Federal Property and Administrative Services Act (FPAS), the USPTO is not required to make multiple awards for indefinite-quantity contracts under any circumstances, or, where multiple awards are made, to use any specific procedures for placing task or delivery orders. Contracting Officers are encouraged, however, to consider the use of multiple awards where doing so would result in benefits to the USPTO. A solicitation contemplating multiple awards should address the procedures the USPTO will use for selecting between contractors when awarding task or delivery orders. Where a specific procurement includes procedures for seeking task or delivery order proposals from multiple contractors, applying these procedures to individual requirements below \$5,000 normally will not be in the best interest of the USPTO.

#### *Options*

Because of the USPTO's exemption from FPAS, it may make award on the basis of unpriced options contained in an existing contract without seeking further competition. The USPTO intends to consider the use of this technique in connection with performance-based contracting under the following circumstances:

- a. The award of additional option periods to the incumbent contractor without competition is used as an incentive and reward for good contract performance;
- b. The solicitation notifies offerors that unpriced options will be used as a performance incentive; and
- c. The contract includes provisions for measuring contract performance and the pricing, negotiation, and exercise of additional option periods.

#### *Acquisition Plans*

Acquisition planning serves two important purposes: it establishes how an agency will meet programmatic requirements within the agency's