

Subpart 17.8 - Reverse Auctions

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

17.801 Scope of subpart.

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

17.802 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.

17.803 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 [17.805\(a\)](#).

(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\(d\)](#)).

17.804 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](#)).

17.805 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](#)).

17.806 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.