

Chapter highlights

Purpose: This chapter discusses two-step competitive sealed bidding for procuring IT goods and services.

Key points:

- Two-step competitive sealed bidding is a combination of competitive procedures designed to obtain the benefits of sealed bidding when adequate specifications are not available.
- There is no negotiation in the two-step competitive bid process.
- If an agency receives two or more sealed bids for products that meet the energy- and water-efficiency requirements outlined in § 2.2-4328.1, that agency may only select among those bids.

Table of contents

23.0	Introduction
23.1	When to use two-step competitive sealed bidding
23.2	Two-step competitive sealed bidding process options
23.2.1	Combined two-step competitive sealed bidding
23.2.2	Uncombined two-step competitive sealed bidding
23.3	Conducting two-step competitive sealed bids
23.3.1	Step one: unpriced technical proposals
23.3.2	Step two: pricing offers
23.4	Award document
23.5	Procurement file

23.0 Introduction

This chapter discusses two-step competitive sealed bidding for the acquisition of IT goods and services. Competitive sealed bidding is the method of contractor selection set forth in § 2.2-4302.1. Two-step competitive sealed bidding is usually used when it is impractical to prepare initially a purchase description to support an award based on price. Accordingly, an Invitation to Bid may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. Two-step competitive sealed bidding should not be used for procuring Cloud Services/Software as a Service (SaaS) solutions.

Two-step competitive sealed bidding is a combination of competitive procedures designed to obtain the benefits of sealed bidding when adequate specifications are not available. The objective of two-step sealed bidding is to permit the development of a sufficiently descriptive but not unduly restrictive statement of the agency's IT requirements, including adequate technical requirements, so that subsequent acquisitions may be made by conventional sealed bidding. This method is especially useful in acquisitions requiring technical proposals, particularly those for complex IT items. The two-step competitive sealed bidding procurement method is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest, responsive,

responsible bidder while also allowing competitive sealed negotiation-like procedure through solicitation of technical offers and the conduct of discussions to arrive at technical offers. There is no negotiation in the two-step competitive bid process. Agencies may request additional information from bidders to clarify material contained in their technical proposals. Such requests for additional information should always occur before the priced bids are considered.

For a brief overview of the two-step IFB and combined two-step IFB, please refer to [Appendix 23.0](#) of this manual.

All other invitation for bid (IFB) procedures such as notice, form, etc., that apply to an IFB also apply to a two-step IFB and combined two-step IFB solicitation.

23.1 When to use two-step competitive sealed bidding

Unless other factors require the use of competitive sealed bidding, two-step sealed bidding may be used when any of the following situations exist:

- There is a need to evaluate technical offers for acceptability in fulfilling the IT procurement requirements.
- There is a lack of adequate specifications or when rapid changes in technology make it more advantageous to request unpriced technical proposals before making any award based on price.
- To facilitate understanding of the technical offers and purchase description requirements through discussion; and, where appropriate, obtain supplemental information or permit amendments to the solicitation and technical offers.
- Available specifications or purchase descriptions are not definite or complete.
- Definite criteria do exist for evaluating technical proposals.
- More than one technically qualified supplier is expected to be responsive.
- There is sufficient lead time available to complete a two-step competitive sealed bidding procurement.
- A firm-fixed-price contract or a fixed-price contract with economic price adjustment is desired.

23.2 Two-step competitive sealed bidding process options

Two-step competitive sealed bidding is a process consisting of two separate bid phases— technical and price—and can occur in one of two ways:

23.2.1 Combined two-step competitive sealed bidding

Using this method, the two-step competitive sealed bidding process is combined to require simultaneous submission of the technical and price bids, but in separately sealed envelopes. The envelopes must be labeled “Technical Proposal” and “Bid Price”, and each must include the bidder’s name, address and the bid reference number. The envelopes containing the technical proposals are opened and evaluated first. The technical proposals which meet the bid criteria and are deemed acceptable after evaluation are selected. The envelopes containing the bid prices for those acceptable proposals are then opened and an award is made to the lowest responsive and responsible bidder. The envelopes containing the bid prices for those technical proposals determined to be unacceptable will be returned to the suppliers unopened.

23.2.2 Uncombined two-step competitive sealed bidding

Using this method, simultaneous technical proposals and price bids are neither requested nor accepted, but rather two separate IFBs are issued. For the first step, the agency issues an IFB for unpriced technical proposals. The objective is to first determine the acceptability of the supplies or services offered. This step evaluates whether the offeror’s bid conforms to the technical requirements but does not determine whether the supplier is responsible.

After completing the technical evaluations, the procuring agency, for the second step, will issue another IFB for pricing bids, but only to those bidders whose unpriced technical offers were qualified as acceptable and responsive. The pricing offers submitted in this second step are evaluated and award(s) is then made in accordance with Virginia Code § 2.2-4302.1, to the lowest responsive and responsible bidder.

23.3 Conducting two-step competitive sealed bids

23.3.1 Step one: unpriced technical proposals

- **Prepare the unpriced technical IFB:** Prepare an IFB requesting unpriced technical proposals which includes the following content, along with the procuring agency's custom content. This is intended as a partial content guide, as each agency has its own IFB template with appropriate sections to present such content.

Recommended IFB section	Content description
Cover sheet	Statement of intent to use the two-step method.
	Explanation of the two-step competitive sealed bidding procedure with emphasis that technical proposals must not include prices or pricing information. However, if price bids are to be submitted at the same time as unpriced technical offers (i.e., combined two-step IFB) instruct that the price bids shall be submitted in a separately sealed envelope marked "Bid Price."
	Inclusion of any small business set-aside requirements; or if it is intended that award may be made to other than the lowest priced bidder, inclusion of language explaining that "An award may be made to a qualified, reasonably ranked DSBSD-certified small business, including a small minority-, women- or service disabled veteran- owned and micro business offeror, if available, or one that is other than the highest ranking offeror if the price submitted is fair and reasonable so long as it does not exceed five percent (5%) of the lowest responsive and responsible noncertified bidder."
Proposal instructions	Indicate if a pre-bid conference will or will not be held. If one will be held provide date/time/location details and state if attendance is mandatory.
	For combined two-step competitive IFBs, the instructions must specify that responses must be submitted in two separate sealed envelopes—one marked "Technical Proposal" and the other "Bid Price"—and bidders must identify both envelopes with the bidder's name, company name and address, and bid reference number.
	Include a statement that either: (1) only one technical proposal may be submitted by each offeror, or (2) that multiple technical proposals may be submitted. When specifications permit different technical approaches, it is generally in the agency's best interest to authorize multiple proposals.
	If the agency intends to make this a DSBSD-certified small business or micro business set-aside procurement, the set-aside provision must be included in the IFB.
Introduction/background	Provide high-level information about your agency and project.

Statement of need(s)	Provide a general description of the IT supplies or services required.
Proposal requirements	Require that technical proposals must describe how the bidder intends to meet the agency's requirements and what goods, equipment and services will be furnished.
	Specify mandatory technical and functional data, specifications and requirements; schedules; inspection or testing; optional information desired; required bid samples, descriptive literature, technical data or other material to be submitted; etc.
	Provide information on any delivery or performance requirements to assist bidders in determining bid/no-bid
	Emphasize that the IT goods or services being procured shall be furnished by the bidder in accordance with the bidder's technical offer, if found to be acceptable by the agency, and that they shall meet the requirements of the IFB.
	Include all required general, special and IT/VITA specific terms and conditions and include a statement that these are non-negotiable.
Supplier Procurement and Subcontracting Plan	Require that all solicitations, regardless of amount, include a Supplier Procurement and Subcontracting Plan. The form can be found here: https://www.vita.virginia.gov/procurement/policies--procedures/procurement-policies/
	Include a statement that any award document shall incorporate by reference the terms and conditions of the solicitation and the supplier's technical proposal.
Evaluation criteria	Discuss the evaluation criteria to be used in the evaluation of the unpriced technical offers including all factors and any significant sub-factors.
	Include a statement that the agency may make a final determination regarding a proposal's acceptability solely on the basis of the proposal as submitted.
	State that the agency may proceed with the second step without requesting further information from any bidder; however, additional information or discussion may be requested from bidders whose proposals are considered reasonably susceptible of being acceptable.
	State that a notice of unacceptability will be forwarded to bidders upon completion of evaluations and final determination of unacceptability.
	State that in conducting the second step, price bids will be requested only from those bidders whose technical proposals were determined to be acceptable, either initially or as a result of discussions.
Proprietary information	Request that bidders designate those portions of the unpriced technical offers which contain trade secrets or other proprietary information that must remain confidential.

- **Amendments to the IFB:** Amendments may be made by the issuance of an addendum to the IFB prior to the time set for receipt of step 1 technical responses. Acknowledgment of receipt of an addendum must be returned prior to the time set for receipt of bids or proposals or accompany the bid or proposal. Failure

to acknowledge receipt of an addendum may be cause for rejection of the bid or offer. l. After receipt of unpriced technical offers, amendments to the two-step IFB shall only be distributed to bidders who submitted unpriced technical offers. Bidders shall be allowed to submit new unpriced technical offers or to amend those submitted in response to an IFB amendment. If a proposed amendment will significantly change the nature or scope of the original procurement in the agency's opinion, the IFB should be cancelled and a new one issued.

- **Bid mistakes or corrections:** Mistakes in an unpriced technical offer may be corrected, or the offer withdrawn, during step one of the two-step IFB if done before the unpriced technical offers are evaluated. Also, corrections or withdrawals are allowed when responding to any amendment to the IFB.
- **Receipt of unpriced technical offers:** Upon receipt of the unpriced technical offers, the agency procurement officer shall conduct the following activities:
 - Publicly open the technical offers and announce the names of submitting firms
 - Safeguard technical offers against disclosure to unauthorized persons. Technical offers will be kept confidential by the agency until award. The agency should accept and handle data that is marked confidential or proprietary by the bidder as required in Chapter 10 of this manual.
 - Remove any reference to price or cost.
- **Evaluation of technical offers:** Evaluation of technical offers shall be based on the criteria provided in the solicitation. The evaluation team will evaluate and select those proposals which meet its needs, based on the mandatory criteria specified in the solicitation. The evaluators may request written or oral discussions from bidders to request additional information or clarification regarding the technical information included in the offer. The contents of the technical offer are not subject to negotiation and must be evaluated as submitted. They are not ranked but are categorized on their ability to meet an agency's needs as follows:
 - **Acceptable:** The proposal meets the requirements of the IFB.
 - **Unacceptable:** Any proposal which modifies or fails to conform to the essential requirements and specifications of the IFB shall be considered nonresponsive and categorized as unacceptable. The procurement lead should prepare a written basis for determining an unpriced technical offer "unacceptable" for the procurement file.

Pursuant to § 2.2-4328.1 if an agency receives two or more sealed bids in response to an IFB for IT products that meet one or more of the criteria below, that agency may only select among those bids:

- The products are Energy Star certified
- The products meet FEMP-designated efficiency requirements
- The products appear on FEMP's Low Standby Power Product List
- The products are Water-Sense Certified

Agencies must include whether bidders' products meet the energy- and water- efficiency requirements established in § 2.2-4328.1 in the IFB, and as criteria for evaluating bidders' responses to the IFB.

After evaluations are completed, the agency may proceed directly to step two if there are sufficient acceptable technical offers to ensure adequate price competition. When a technical proposal is found unacceptable (either initially or after clarification), the agency shall promptly notify the bidder of the basis of the determination and that a revision of the proposal will not be considered. Upon written request, the agency may debrief unsuccessful bidders. Only those responsive bidders whose technical proposals were determined to be acceptable will be invited to submit a bid price.

Localities may include a determination of whether a bidder possesses the moral and business integrity and reliability that will assure good faith performance in order to determine bidders' responsibility

Request for additional information or clarification: In initiating requests for additional information, the agency shall fix an appropriate time for bidders to submit all additional information and incorporate such additional information in their offers. Such time may be extended at the discretion of the agency. If the additional

information incorporated as part of a proposal within the time posted by the agency establishes that the proposal is acceptable, it shall be so categorized. Otherwise, it shall be categorized as unacceptable.

Discussion of unpriced technical offers: Discussions may be held between the agency and any bidder who submits an acceptable or potentially acceptable unpriced technical offer. The agency shall not disclose any information derived from one unpriced technical offer to any other bidder.

If only one acceptable offer received: If only one responsive bid is received in response to a two-step IFB, an award may be made to the single bidder if the agency finds that the price submitted is fair and reasonable and that other prospective bidders had reasonable opportunity to respond, or there is not adequate time for re-solicitation. Otherwise, the bid may be rejected, the procurement cancelled, and a new solicitation issued.

Cancellation of two-step sealed bidding due to lack of acceptable technical offers: If, in the agency's opinion, there are not sufficient acceptable unpriced technical offers to assure effective price competition without modification or alteration of the offers, the agency can issue an amendment to the IFB or cancel the solicitation. If it is necessary to discontinue two-step sealed bidding, the agency shall include a statement of the facts and circumstances in the procurement file. Each bidder shall be notified in writing.

23.3.2 Step two: pricing offers

Prepare the pricing IFB: Prepare an IFB requesting price proposals which includes the following content, along with the procuring agency's custom content. This is intended as a partial content guide, as each agency has its own IFB template with appropriate sections to present such content. When requesting pricing proposals, competitive sealed bidding procedures shall be followed except that invitations for price bids shall be issued only to those offerors submitting acceptable technical proposals in step one.

Recommended IFB section	Content description
Cover page	Include a reference to the request for technical proposal title and number and set a specific date and time for receipt of sealed pricing bids.
Proposal instructions	Provide the location for receipt and date, or date and hour, by which the bids must be received.
	If the agency intends to award to other than the lowest priced bidder, the set-aside provision must be included in the IFB.
	Prominently state that the bidder's price proposal shall comply with the specifications and the bidder's technical proposal.
	For "combined" two-step competitive IFBs, the instructions must specify that the responses must be submitted in two separate sealed envelopes—one marked "Technical Proposal" and the other "Bid Price"—and bidders must identify both envelopes with the bidder's name, company name and address, and bid reference number.
Proposal requirements	Include a pricing schedule based on the specifications in the bidder's technical proposal.
	Include a reference to the required and non-negotiable general, special and IT/VITA-specific terms and conditions that were included in the technical proposal solicitation.
	Include a statement that the award document shall incorporate by reference the terms and conditions of the solicitation, the bidder's technical proposal, and the bid price.

Receipt and opening of pricing proposals: After the pricing proposals are received a public opening is held via eVA.

- **Uncombined Two Step Competitive Sealed Bids:** Bids are tabulated, and the contract is awarded to the lowest responsive and responsible bidder. However, if the provision for award to other than the lowest priced bidder was made in the solicitation, the award may be made to a reasonably priced DSBSD-certified small business including small businesses owned by women, minorities and service-disabled veterans or a micro business bidder that is other than the lowest priced bidder.
- **Combined Two-Step Competitive Sealed Bids:** After the technical proposals are opened and evaluated, the price envelopes for those technical proposals selected as acceptable are opened. The envelopes containing the price bids for those proposals determined to be not acceptable will be returned to the bidders unopened. The award is made to the lowest responsive and responsible bidder. However, if the solicitation included a provision for award to other than the lowest priced bidder, the award may be made to a reasonably priced DSBSD-certified small business including small businesses owned by women, minorities and service-disabled veterans or a micro business bidder that is other than the lowest priced bidder.

23.4 Award document

The award document shall incorporate in full text or by reference the terms and conditions of the IFB, the bidder's technical proposal, and the bid price.

23.5 Procurement file

The procurement file for a two-step IFB or a combined two-step IFB should contain the following:

- Request for unpriced technical proposals (IFB)
- Confirmation of IFB posting in eVA
- Any amendments to the IFB
- Copy of notices to bidders whose unpriced technical offers were found to be unacceptable and the basis for such finding
- Written determination to cancel solicitation, if applicable
- Evaluation of unpriced technical offers
- Tabulation of bid pricing through eVA

Contract award document to lowest responsive and responsible bidder (or a reasonably priced DSBSD-certified small business including small businesses owned by women, minorities and service-disabled veterans as well as micro business).

