

Client Alert

DoD Proposes Limitations & Prohibitions on Use of LPTA Source Selection Process

December 11, 2018

Implementing a Department of Defense (DoD) policy preference against the use of lowest priced technically-acceptable (LPTA) procurements that was codified in the National Defense Authorization Acts (NDAA) for fiscal year 2017 and 2018, last week, the DoD issued a proposed rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to reflect the limitations and prohibitions in the NDAA provisions.

Of note, the proposed rule would add DFARS 215.101-2-70, which sets forth the eight scenarios under which LPTA source selection procedures can be used, such as when the proposed technical approaches will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal. The proposed rule makes clear that the limitations and prohibitions (*e.g.*, the prohibition against using, to the maximum extent possible, LPTA procurement for the acquisition of IT and cybersecurity services and systems engineering and technical engineering services) apply to several types of acquisitions including, but not limited to, Federal Acquisition Regulation (FAR) Part 15 procedures for negotiation, acquisitions for commercial items under FAR Part 12, and simplified acquisition procedures using FAR Part 13.

Contractors should be aware of these new restrictions and have until February 4, 2019 to submit comments to be considered in the formation of the final rule.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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