

Management and Operating Contractor for the Fermi National Accelerator Laboratory (FNAL)

Solicitation Number: 89243123RSC000083

Questions and Answers

(46)

46. Question: Regarding Section L.5(1), can DOE please confirm (or otherwise amend the RFP to expressly state) that Past Performance Information Forms (PPIF) are eligible to be submitted for any "Team member" as defined at L.1(a) of the RFP, so as to be consistent with the FAR Subpart 9.6 – Contractor Team Arrangements?

FAR 9.602 recognizes that contractor team arrangements enable team members to "complement each other's unique capabilities", "offer the Government the best combination of performance, cost, and delivery" and that they "may be particularly appropriate in complex research and development acquisitions." However, because "Offeror" is defined in Section L.1(a) of this RFP to mean "the potential prime Contractor" entity only, Section L.5(1) as currently drafted appears to unfairly prevent an offeror with a teaming structure in accordance with FAR 9.601(2) from having the past performance information of its subcontractor team members evaluated under the RFP, resulting in an unfair competitive advantage for offerors whose teaming structure follows that of FAR 9.601(1). Such an advantage is inconsistent with the provisions of FAR Subpart 9.6, which provides for no such preference for teaming structures described in FAR 9.601(1) over those in (2), and otherwise states that the "Government will recognize the integrity and validity of contractor team arrangements, provided, the arrangements are identified and company relationships are fully disclosed in an offer." Thus, as written Section L.5(1) unduly restricts competition.

Answer: In accordance with Section L.5(1), Past Performance Information Forms (PPIF) can be submitted by the Offeror (as defined in Section L.1) and/or the individual entities comprising the Offeror. This does not include other team members that may be part of the Offeror's team arrangement, as defined in FAR 9.601(2). Under Section L.5, DOE will evaluate only those entities with potential privity of contract. PPIF's submitted by team members other than those individual entities comprising the Offeror will not be evaluated in response to Section L.5. The capabilities and strengths of team members other than those individual entities comprising the Offeror may be evaluated under other evaluation factors in which they are proposed.

FAR 9.601 provides the definition of "Contractor Team Arrangement". It does not dictate or mandate a requirement to consider a Contractor Team Arrangement as part of past performance in a solicitation. DOE does not agree that Section L.5(1) unduly restricts competition. As such, no change will be made to the RFP.