

REVERSE AUCTION CONTRACTING TECHNIQUE

For nearly two years, the CECOM Acquisition Center has been at the forefront of an innovative contracting technique – the use of an on-line auction to procure supplies. With the blessing of the Department of Defense (DOD), CECOM began conducting on-line auctions in the spring of 2000. DOD had written to the Senate Armed Services Committee that online auctions had the potential to save DOD significant resources in time, funding and labor. The on-line auction is an event conducted over the Internet in which multiple suppliers of goods have an opportunity to simultaneously bid to meet a buying organization's specified requirements. This technique permits bidders to submit multiple bids over time to reduce their prices to be more competitive with other bidders. Since the prices are moving downward, this form of auction is referred to as a "Reverse Auction."

The Reverse Auctioning tool is an award-winning electronic commerce application that represents a significant departure from the static and inflexible process typically used to purchase supplies. After conducting numerous reverse auctions for various agencies over the past two years, it has become evident that the two basic benefits are savings and efficiency. Before we discuss the reasons for these benefits, let's briefly review the process and the regulatory history.

The process begins with an announcement of the requirements to be procured through the Interagency Business Opportunities Page (IBOP). A screen is completed by the Contracting Office which describes the items to be procured and sets forth the rules of the auction; i.e., start time, duration, minimum bid, etc. The qualified bidders can access a screen that permits them to submit their bids, and see other competitors' bids during the course of the auction. The bidders' identities, although known by the Contracting Officer, are not publicly disclosed during the course of the auction. The Contracting Officer can monitor the auction, which will be ended automatically at the predetermined closing time (including any provision for automatic extensions).

Until the rewrite of Part 15 of the Federal Acquisition Regulation (FAR) in 1997, the FAR prohibited the use of auction techniques in negotiated procurements. When FAR Part 15, which governs the conduct of negotiated procurements, was rewritten, it encouraged a more open dialogue between the Government and offerors, and no longer included the prohibition against the use of auction techniques. This change to the FAR, coupled with the proliferation of the Internet, especially the more common use of commercial auction sites, such as e-Bay, opened the door to the use of the on-line auction technique in Government acquisition.

At present, there is no FAR guidance on the use of auction techniques and there have been very few General Accounting Office (GAO) cases that have discussed the subject. Although there is not any direct prohibition against the use of on-line auctions, neither the FAR nor the GAO have specifically approved of its use.

In February 2001, the DAR Council tasked the Contract Placement Committee (CPC) with considering the more than 40 public comments received in response to the request on reverse auctioning which had been issued in the Federal Register. They were to prepare a proposed FAR rule on reverse auctions. Although FAR Case 2001-010 was never formally published, the CPC suggested some changes to the FAR which would have recognized the reverse auction technique as an “innovative approach” to conduct simplified acquisitions and, more importantly, as an approved method of submitting “price proposals and conducting price discussions” in negotiated acquisitions. Unfortunately, these suggested changes were never adopted.

The GAO has denied two protests involving acquisitions that utilized reverse auctions. Both protests centered on the actual conduct of the auction. Although the protests were denied, the GAO did not rule on the propriety of the on-line reverse auction technique.

Although neither the FAR nor the GAO have affirmatively endorsed the on-line reverse auction technique, the positive benefits to the Government are irrefutable. The time required to conduct an acquisition using the on-line auction technique is significantly reduced compared to the traditional paper proposal process. More importantly, judging by the results to date, significant cost savings have been achieved, and are directly attributable to the use of the on-line auction. The CECOM Acquisition Center has reported savings of over 35% in some acquisitions. When utilized appropriately, on-line auctions have proven to be an efficient, cost-saving acquisition technique.

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