

NextGen Control Tower RFP – 7200AA21R00088 - RFQ1510578

Unlock Aid reviewed the NextGen Control Tower RFP, released in Fall 2021. The firm that wins this contract will play one of the most important roles in all of USAID’s suite of NextGen Global Health Supply Chain awards. The NextGen Control Tower will serve as the data engine to enable information sharing and management oversight for all of USAID’s global health supply chain activities. This has real-life consequences: effective data-driven decision making can prevent supply chain stock-outs to get people the life-saving medicines they need when they need them. An effective NextGen Control Tower will also help USAID save many millions of dollars on behalf of the American taxpayer.

We looked at the NextGen Control Tower RFP and related Question-and-Answer (Q&A) comments to see how well the RFP design: a) incentivizes contractors to deliver results; and b) promotes innovation by sourcing new ideas and approaches from world-class innovators.

Results: The RFP design does an above-average job incentivizing the delivery of results, including by triggering award payments upon successful delivery of agreed-upon objectives. However, the winning prime contractor will still earn significant revenue for delivery of inputs such as charges to the government associated with labor and other reimbursable costs.

Innovation: The RFP gets a much more mixed, net negative, score on its promotion of innovation. On one hand, the RFP uses a phased-proposal approach that reduces barriers to applying. It also asks contractors to tell the agency how they would implement the NextGen Control Tower rather than having USAID prescribe the solution for them. However, the RFP precludes all but a select group of the US Government’s legacy contractors from competing. This discourages innovation because it limits USAID’s ability to source new ideas from world-class innovators that have never worked with the US Government.

Here’s what we liked:

- USAID provided a Statement of Objectives instead of a Statement of Work. This is important because it presumes that the contractor has the expertise required to deliver the intended work. A Statement of Objectives asks the proposing contractors to explain to USAID how they intend to deliver against the contract’s intended objectives. This opens the door to a variety of approaches, including in the case of this RFP the use of open-source solutions, commercially-off-the-shelf solutions, building new software from scratch, and hybrid approaches.
 - Note: When USAID structures contracts using Statements of Work (instead of a Statement of Objectives) this prescribes how a solution must be delivered, which discourages many innovators that may have a different approach than the one prescribed from submitting a proposal.

- USAID structured the RFP proposal process into two phases. In the first phase, contractors needed only to submit to USAID evidence of past performance relevant to this RFP’s objectives. After evaluating those submissions, USAID Contracting Officers then invite contractors with sufficient relevant experience to submit technical proposals in a second phase. This phased approach reduces up-front proposal effort and costs, which lowers barriers to entry to working with USAID.

Here’s what could use improvement:

- Only pre-identified legacy government contractors could compete for this RFP. USAID structured this RFP as Task Order (TO) placed against the Government-Wide Acquisition Contract (GWAC) Alliant 2 Indefinite-Delivery-Indefinite-Quantity (IDIQ) schedule. In lay terms, this means that the agency had a pre-approved list of a few dozen approved legacy government contractors that were allowed to submit proposals. While these contractors had to apply to be on the GWAC schedule, using this IDIQ for the NextGen Control Tower RFP limited who could submit proposals. USAID could have instead made this RFP subject to full-and-open competition to source ideas and approaches from the world’s best innovators. Given that this was a technology award, restricting eligibility to compete for this RFP to existing USG GWAC contractors precluded the world’s most cutting-edge firms, from Silicon Valley to Berlin to Cape Town, from competing.
- The IDIQ award design also increased information asymmetry between prime contractors and their proposed subcontractors, which discourages smaller would-be subcontractors from participating. Each of the government’s pre-approved IDIQ prime contractors has a master agreement with the federal government that only those contractors can see. When USAID published this specific Control Tower RFP under the header of that master IDIQ, USAID did not make the master agreement public as well. As a result, primes have information that subcontractors do not, including information about which terms and conditions the US Government will accept (as well as which proposal and compliance requirements need to flow down to subcontractors and which do not). Structural barriers that put smaller innovators at a disadvantaged negotiating position relative to larger primes discourages new innovators from working with USAID.
- The agency structured the pricing arrangement of the award as a hybrid Cost-Plus-Award-Fee (CPAF) and Firm-Fixed Price (FFP) contract, with one set of activities to be paid under a CPAF structure and licensing paid under a FFP.
- We would have preferred to see both structured as FFP. A CPAF contract reimburses the contractor for costs incurred and provides additional “award” payment(s) based on how well the contractor achieves pre-defined objectives. While the award fee incentive is good – and it is preferable to other contract design options such as the Cost-Plus-Fixed-Fee model that does not include any financial incentives for good performance – the “cost” component of a CPAF is problematic. The moment USAID uses “cost reimbursable” methods to pay a contractor, the compliance requirements skyrocket, which discourages new and commercial organizations from competing. For example, to calculate costs such as reimbursable hourly rates, USAID requires the bidding contractor to submit arcane documentation like a Negotiated Indirect Cost Rate Agreement (NICRA) or multiple years of audited financials, both of which are exceedingly expensive, complex, and time-consuming to obtain; legacy government contractors will have these documents but firms that have not worked with the government will not.

- FFPs on the other hand are among the best tools that USAID has to incentivize efficient and economical performance, minimize the administrative burden for USAID and the implementer, and are easier for organizations that have never worked with USAID before to apply for and manage. Under an FFP contract, USAID pays only against the delivery of milestones and does not reimburse for costs. Since cost calculations are immaterial to final payment, USAID therefore does not need to scrutinize, approve, and/or audit incurred costs or oversee NICRAs and/or audited financials when it structures contracts using the FFP model. The winning contractor also does not need to invest in expensive systems to track expenses in a manner that is compliant with USAID cost-reimbursable requirements. In this specific RFP, however, while USAID chose to pay for one part of the award using an FFP contract (which is good, in theory), the original RFP language takes the additional, unnecessary step of requiring contractors to submit audited financials anyway, effectively eliminating one of the main benefits of the FFP award design.
 - Note: During the Q&A phase of this proposal, USAID clarified the underlying RFP language to indicate that major subcontractors performing work solely on a firm-fixed-price basis did not need to submit cost information such as a NICRA. However, because the Q&A language did not also provide a reference to “FAR Part 52.212-4 Contract Terms and Conditions – Commercial Items,” it is still likely that the audit requirements that apply to prime contractors would still later flow down to major subcontractors after the work is underway, which would significantly increase compliance costs for subcontractors and eliminates one of the benefits of FFP award design. Additionally, because this clarifying language was provided late in the process during the Q&A phase, and not when the underlying RFP was published, it is likely that many subcontractors would have already opted-out of signing teaming agreements with potential prime contractors at the earliest stages of proposal development.
 - Note: One criticism of the FFP award type is that it puts more risk on the contractor, which may discourage new and/or smaller organizations from bidding. There are ways to address these concerns, however: USAID could provide up-front payment at the project’s start date to provide the contractor with the financial runway needed to get started, with subsequent payment subject to delivery of milestones. The contractor could also include a risk premium in the price quote it provides to USAID. *Force majeure* clauses can also protect both USAID and the contractor in the event unforeseen circumstances make project delivery impossible. In any case, USAID should expect its contractors to deliver intended results.
- Finally, while the RFP restricted which firms could submit a proposal as a prime contractor, the RFP’s original language regarding past performance *also* likely made it difficult for potential subcontractors that had not previously worked with the US Government to participate as well. This is because the RFP’s original language indicated that USAID may review Contractor Performance Assessment Reports (CPARs) to determine who to award the contract, including for subcontractors that exceed 20% of the RFP’s total proposed cost or any subcontractor with a “principal responsibility for implementing one or more of the program components/deliverables or results area.” A CPAR is a US Government-specific report and an organization will only have one if it has previously worked as a prime with the US Government. Many prime contractors are risk averse and do not want to submit potentially “non-compliant” proposals to USAID, so these primes would likely not include subcontractors that did not have a CPAR.

- Note: During the Q&A phase of this proposal, USAID clarified this requirement to make it clear that organizations could submit evidence of past performance in private industry. However, because this clarifying language was provided late in the process during the Q&A phase, and not when the underlying RFP was published, it is likely that many subcontractors would have already opted-out of signing teaming agreements with potential prime contractors at the earliest stages of proposal development.

Appendix: Detailed Comments Regarding Underlying RFP

Agency: US Agency for International Department (USAID) - Bureau for Global Health
 Solicitation No: 7200AA21R00088 - RFQ1510578
 Solicitation Name: Control Tower for Next Generation Global Health Supply Chain Suite of Programs (NextGen)

Solicitation Reference	Recommended Reference	Concern	Recommendation
Alliant 2 Governmentwide Acquisition Contract (GWAC)	Subpart 6.1 - Full and Open Competition	<ul style="list-style-type: none"> Alliant 2 GWAC is a multiple-award, indefinite delivery, indefinite-quantity (IDIQ) Governmentwide Acquisition Contract (GWAC) established by the Administrator of General Services offering IT solutions worldwide. This GWAC has “down selected” from an open pool of bidders to a specific list of bidders. Eligibility to submit a response to this RFP is limited to those organizations on the Alliant 2 GWAC, precluding other organizations that might have an innovative approach to respond to the project objectives. Small or new organizations can only become a subcontractor only if a GWAC Prime decides to invite them to participate. The Task Order RFP contains only RFP-specific contract clauses and does not necessarily contain all the contract clauses contained in the GWAC Prime Contract which further limits small or new organizations from understanding 	<ul style="list-style-type: none"> Issue the RFP on sam.gov, publicly available to all, which would allow any organization with an innovation solution to compete.

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52.215-2 Audit and Records-Negotiation.	52.212-4 Contract Terms and Conditions – Commercial Items	<p>what contract clauses should flow down from the Prime to the subcontractor.</p> <ul style="list-style-type: none"> • FAR Part 52.215-2 Audit and Records Negotiations requires for a “cost-reimbursement, incentive, time-and-materials, labor-hour, or price predetermined contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants, or parts of them, engaged in performing the contract.” • For organizations that have never worked with the US Government before, this is a costly, time-consuming, and onerous requirement, especially for a small organization that is subcontracting to performing a small portion of the work. 	<ul style="list-style-type: none"> • This project objective meets the definition of a commercial item or services per FAR Part 2.101 Definitions. • The RFP should reference “FAR Part 52.212-4 Contract Terms and Conditions – Commercial Items” for subcontract awards to remove the Audit and Records Negotiations requirement for proposed subcontractors.
Firm Fixed Price (FFP)	52.212-4 Contract Terms and Conditions –	<ul style="list-style-type: none"> • One of the two CLINs in this award is structured as an FFP, which should mean the government does not need to know how a contractor calculates costs – just that the intended objective was 	<ul style="list-style-type: none"> • This CLIN should reference “FAR Part 52.212-4 Contract Terms and Conditions – Commercial Items” for subcontract awards to remove the Audit and Records Negotiations requirement for proposed

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	Commercial Items	<p>delivered. However, because the RFP does not include “52.212-4 Contract Terms and Conditions – Commercial Items,” any subcontractor proposed by the Prime would still be subject to Audit and Records Negotiations, which is a costly, time-consuming, and onerous requirement, especially for a small organization performing only a small portion of the work.</p> <ul style="list-style-type: none"> • Per FAR 16.202-2 Application, “A firm-fixed-price contract is suitable for acquiring commercial products or commercial services (see parts 2 and 12) or for acquiring other supplies or services on the basis of reasonably definite functional or detailed specifications (see part 11) when the contracting officer can establish fair and reasonable prices at the outset, such as when- <ul style="list-style-type: none"> ○ (a) There is adequate price competition; ○ (b) There are reasonable price comparisons with prior purchases of the same or similar supplies or services made on a competitive basis or supported by valid certified cost or pricing data ; ○ (c) Available cost or pricing information permits realistic 	<p>subcontractors.</p> <ul style="list-style-type: none"> • If USAID determines it still must see cost information, in lieu of subjecting a subcontractor to Audit Negotiations, the subcontractor should be able to provide evidence of other contracts or similar documentation to show they been awarded for similar or the same scope providing price comparisons per subparagraph (b).

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		<p>estimates of the probable costs of performance; or</p> <ul style="list-style-type: none"> ○ (d) Performance uncertainties can be identified and reasonable estimates of their cost impact can be made, and the contractor is willing to accept a firm fixed price representing assumption of the risks involved.” <ul style="list-style-type: none"> ● As this is a competitive proposal using the Alliant 2 GWAC, there would be sufficient competition as required in subparagraph (a). ● If the Prime can provide scope of work that is clearly defined [per subparagraph (d)] and readily available in the market, this would allow the Prime to perform a price analysis. 	
<p>Cost Plus Award Fee (CPAF)</p>	<p>52.212-4 Contract Terms and Conditions – Commercial Items allowing for Time and Material (T&M) per FAR 16.601 Time-and-materials contract in place of Cost</p>	<ul style="list-style-type: none"> ● One of the two CLINs is structured as a CPAF. Introducing “cost reimbursable” requirements that significantly increase application and compliance requirements. ● By not including 52.212-4 Contract Terms and Conditions – Commercial Items, even if a Time and Material subcontract was requested by the Prime, the subcontractor would be subject to Audit and Records Negotiations which is a costly, time-consuming, and onerous requirement for a small organization subcontractor performing a small portion of the work. 	<ul style="list-style-type: none"> ● USAID should structure this CLIN as a FFP, not a CPAF. ● This CLIN should reference “FAR Part 52.212-4 Contract Terms and Conditions – Commercial Items” for subcontract awards to remove the Audit and Records Negotiations requirement for proposed subcontractors. ● If the agency insists on using CPAF cost reimbursable methods, USAID should at a minimum: <ul style="list-style-type: none"> ○ Allow the prime and/or sub to perform a price analysis of the commercial T&M Rates with a reasonable price comparison

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	Plus Award Fee		<p>with prior purchases of the same or similar supplies or services made on a competitive basis in lieu of Audit and Negotiations requirements.</p> <ul style="list-style-type: none"> ○ Allow a T&M contract or labor-hour contract. Per FAR 12.207 Contract type subparagraph (b), a T&M contract or labor-hour contract “may be used for the acquisition of commercial services when- <ul style="list-style-type: none"> (i) The service is acquired under a contract awarded using- <ul style="list-style-type: none"> ▪ (A) Competitive procedures (e.g., the procedures in 6.102, the set-aside procedures in subpart 19.5, or competition conducted in accordance with part 13); ▪ (B) The procedures for other than full and open competition in 6.3 provided the agency receives offers that satisfy the Government’s expressed requirement from two or more responsible offerors;” ○ The Scope of Work may fit the T&M requirements by allowing a small organization to perform a scope of work on this project. There would still be a significant burden for a smaller partner related to tracking of Level of Effort but this T&M structure would still allow the smaller partner to avoid the costly and onerous task

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			to apply for the award per FAR Part 52.215-2 Audit and Records Negotiations.
Past Performance	Subpart 6.1 - Full and Open Competition	<ul style="list-style-type: none"> • M.2.1 Past Performance (Factor 1) subparagraph c. states “The Government reserves the right to verify the experience and past performance record of cited projects or other recent projects by reviewing Contractor Performance Assessment Reports (CPAR’s), other performance reports, or to interview cited references or other persons knowledgeable of the Offeror’s performance on a particular project.” • Risk-averse Primes will interpret the above clause to mean that a proposed subcontractor must have a CPAR. Only subcontractors that have previously worked with the US Government before will have a CPAR. • As this is a GWAC IDIQ, the Prime contractors must be on it and have Federal Government Past Performance. This does not allow for new organizations not on the IDIQ and without previous experience working with the federal government to bid as a Prime. 	<ul style="list-style-type: none"> • Use a full and open competition and explicitly allow for many alternatives to a CPAR to show relevant past performance.