

DETERMINATION AND FINDINGS TO USE LATE PROPOSALS AND REVISIONS
HEALTH AND HUMAN SERVICES ACQUISITION REGULATION (HHSAR) 352.215-70
(DECEMBER 2015)

This class Determination and Findings (D&F) is to permit the National Institutes of Health (NIH) to use in competitive solicitations for biomedical or behavioral research and development (R&D), the provision at HHSAR 352.215-70, Late Proposals and Revisions (December 2015).

1. Federal Acquisition Regulation (FAR) 15.208 (b)(1) describes the circumstances that must be present in order for the Government to consider a late proposal, which are: (a) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or (b) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of proposals and was under the Government's control prior to the time set for receipt of proposals; or (c) It is the only proposal received. Consequently, if none of these circumstances are present, the Government is prohibited from considering biomedical or behavioral R&D proposals that are received after the exact date and time specified in the solicitation.
2. HHSAR 315-208 states, in part, that the Head of the Contracting Activity (HCA) may authorize for use in competitive solicitations for biomedical or behavioral R&D, the use of provision at HHSAR 352.215-70. Specifically, HHSAR 352.215-70, states that, notwithstanding the procedures contained in FAR 52.215-1(c)(3) of the provision of this solicitation entitled Instructions to Offerors—Competitive Acquisition, the Government may consider a proposal received after the date specified for receipt if it appears to offer significant cost or technical advantage to the Government and it was received before proposals were distributed for evaluation, or within 5 calendar days after the exact time specified for receipt, whichever is earlier.
3. As a steward for biomedical and behavioral research for the nation, the NIH has an inherent responsibility to discover new and revolutionary treatment and disease prevention methods that increase the power of the patient and community to resist disease and prolong life. Permitting the agency to accept late proposals (i.e., pursuant to HHSAR 352.215-70) that otherwise could not have been accepted, will provide the needed flexibility to ensure that all new advancements in the field of biomedical or behavioral R&D may be considered by NIH.
4. In accordance with FAR 1.706, this class D&F shall expire ten years from the date signed by the HCA.

DETERMINATION

Upon the basis of the foregoing findings and pursuant to HHSAR 315.208(b), the undersigned hereby determines that permitting the agency to consider late proposals in accordance with HHSAR 352.215-70, Late Proposals and Revisions, submitted in response to a competitive solicitation for biomedical or behavioral R&D to be in the public interest.

6/21/16
Date


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