

FINAL REPORT

regarding the

U.S. Army Corps of Engineers

Pilot Program

on

Reverse Auctioning

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FINAL REPORT on USACE Reverse Auction Pilot Program

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Please note: Quick Source™ is the contractor's term for "desktop" reverse auction services.
"Full Source" is the contractor's term for full-service [assisted] reverse auctions.

Section #1
USACE EXECUTIVE SUMMARY

From October 2002 until September 2003, USACE conducted a pilot program to evaluate the use of 'reverse auctioning' in conjunction with the broad, diverse, and complex USACE engineering-acquisition mission. 'Reverse Auctioning' is only one of the elements under the acquisition genre called e-Sourcing. The general claim, by contractors that provide reverse auction services, is that reverse auctioning finds the lowest available market price for any good or service. This pilot program determined that this claim was not consistent for all types of acquisitions under different or variable conditions.

In order to provide a full range of reverse auction training and services for this pilot program, Contract GS-35F-0342K was awarded on a competitive basis to the contractor through the Federal Supply Schedules, under the competitive provisions of FAR Part 8. Other contractors could have provided these or similar reverse auction services.

This pilot program was open to all USACE customers and all agencies within DOD. However, this is not the first time that DOD or the US government has engaged reverse auctioning. Over the past few years, several commands in the Army (e.g. CECOM, FORSCOM) and the Navy had already experimented extensively with reverse auctioning regarding their specific acquisition missions. Reverse auctioning has also been used commercially for several years by large and small businesses, which have used it as a primary tool for price reduction of goods and services.

Please Note: Reverse auctioning IS NOT a new form nor type of contract.

Reverse Auctioning is a newly approved methodology for the government to obtain goods and services through a standard firm fixed price contract.

Also it should be noted that the final result of a reverse auction methodology is identical in every way to that the final result from a seal bid process: A bidding process is used to obtain bids for an award that is made to the lowest bidder – and to execute an award the government then enters into a standard firm fixed price contract with the winning bidder. Reverse Auctioning is merely an alternative contracting process, a choice in methodology to arrive at the lowest bid for a standard firm fixed price contract.

However, there are significant operational dynamics and ramifications in the use of the reverse auctioning methodology that differ greatly from the operational dynamics a sealed bid process. So a major question that must be addressed by any DOD element is whether or not reverse auctioning is significantly or marginally advantageous to any particular acquisition mission, project, product, and or contract. This was the overarching question that this USACE pilot program focused on with regards to the USACE overall vast and complex acquisition mission.

For those who are not adequately familiar with the subject a short primer on 'reverse auctioning' is provided at Section 3 of this USACE report.

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There was an option to extend this pilot program for three months until December 2003, if and only if, time was necessary to complete reverse auction work already in progress. However, these specific circumstances never arose and the contract services for this pilot program were terminated in accordance with the terms and conditions of the Contract GS-35F-0342K on 30 Sep 03. A request was made to USACE by the contractor for the contractor to continue the use of Contract GS-35F-0342K after 30Sep03, but before 31Dec03. However, this request was denied by USACE because the specific special circumstances were not present. By the terms and conditions, the contract had already ended, and contractual authority no longer existed as of on 30Sep03. Additionally, the final contractor's report was not received until April 2004.

Previous to this USACE Pilot Program, select elements of the USACE acquisition team had also used 'reverse auctioning' in a limited manner. They did so by engaging an Army software version of 'desktop' reverse auctioning owned and operated by CECOM of AMC, which is free for use throughout DOD. However, reverse auctioning is a relatively complex and labor-intensive process in comparison to standard sealed bidding. Additionally, prior to this pilot program, there had never been any focus on and/or training for reverse auctioning provided on a widely dispersed agency basis in USACE before. So there were four goals set in using a contractor to provide reverse auctioning services in order to obtain:

- 1) Reverse Auction training for nine sub-commands of USACE (over 180 people).
- 2) Executive briefings to explain reverse auctions and promote their effective use.
- 3) Training in and the use of two different forms of reverse auction technology (standard 'desktop' reverse auctions and full-service [assisted] reverse auctions).
- 4) Expertise, assistance, advice and suggestions in the reverse auction processes.

From a USACE Program Management perspective, the contractor met the majority of all these goals with fully a satisfactory performance.

Within the limited parameters of the pilot program and contractually provided reverse auction services, the USACE Pilot Program sought to evaluate five major issues regarding reverse auctioning:

- 1) Was there in fact a basis to claim that reverse auctions provide real savings (significant or marginal) – beyond the standard sealed bid process?
- 2) Was the reverse auction process more or less efficient and/or effective than the standard sealed bid methodology? (Given that both alternative processes produce the same final operational result of a firm fixed price contract.)
- 3) Was the reverse auction process frictionless and/or compatible with all significant USACE mission factors?

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- 4) Was there a quantitative or qualitative difference in the use of standard 'desktop' reverse auctions versus the use of full-service (assisted) reverse auctions?
- 5) Should reverse auctioning be kept on as part of the professional 'acquisition tool box' for the complex and diverse USACE engineering-acquisition mission?

From the results of this USACE pilot program on reverse auctions USACE determined that:

- 1) The acquisition methodology referred to as 'reverse auctioning' is a strategic acquisition tool that should be kept in the USACE professional acquisition toolbox at all times.
- 2) For a variety of significant reasons, construction services cannot be equated with commodity goods. This is mainly due to the operational dynamics of construction services versus commodities along with the parameters of DOD contracting regulations. The dynamics and variables are just much too diverse between the acquisition categories of construction services versus commodities
- 3) There is apparently significant potential is using reverse auctions for commodity goods and/or very simplistic services where the critical issue of variability is exceedingly small or nil.
- 4) Within this pilot program there was no proof that reverse auctioning provided a significant or marginal edge over the sealed bid process for construction projects. In fact there is NO valid measurement method to project any claim of significant or marginal savings from reverse auctions.
- 5) Conceivably, under very specific, unusual circumstances, reverse auctioning *may* be considered as an alternative methodology for construction services -- but only after sealed bidding has failed. (And this would be an experimental approach.)
- 6) There was no demonstrated quantitative or qualitative difference in the use of the use of full-service (assisted) reverse auctions over standard 'desktop' reverse auctions. In fact, the desktop' version was superior to the full-service version.
- 7) The reverse auction process is not a protest-free methodology for initiating or obtaining a standard firm fixed price contract; it too has systemic, internal flaws.
- 8) There was significant resistance to the use of reverse auctions by a variety of key USACE customers who initially entertained the idea in all earnest. However, after careful consideration, these customers adamantly refused to allow USACE to use the reverse auction method to procure their specific construction services.
- 9) For a variety of reasons, there was also an apparent reluctance by other DOD agencies to sample reverse auctioning services for their acquisition mission.
- 10) At this time, the best form of the reverse auctioning tool that USACE should keep in its professional acquisition toolbox is the free government software version of desktop reverse auctions offered by CECOM of AMC, primarily for commodity acquisitions. All other exceptions should be reviewed by the USACE Acquisition Corporate Group.

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Included within this report is a copy of the contractor's final report as well. See Section #10. This contractor's report does provide a fully satisfactory outline of the general nature of this pilot program covering the basic descriptive narratives for non-value-judgment categories: general services provided, command sites involved, training provided, reverse auctions performed, and a protest against a reverse auction that was sustained. So the USACE report will not provide any redundancy on these standard, descriptive narrative issues. (Please see Appendixes B thru P for these narratives.)

However, it should be noted that USACE is by no means in total agreement with the contractor's report. There are indeed significant differences of opinion. Nonetheless, in the interest of fairness, this contractor's report is included yet balanced by various qualifications and caveats by USACE that will be evident from reading the entire USACE report. Before reading the contractor's report it is recommended that the reader first read Section #2, and take note of the important Point of Clarification provided.

Also, in the interests of fairness to all parties concerned regarding this pilot program, this USACE report also includes a White Paper on Reverse Auctions from the Associate General Contractors of America. See Section 11.

There are some intentional narrative redundancies within this report to reiterate specific critical points. This report was designed so that the reader could focus on one specific question / issue without major referencing back and forth to the answers for other questions / issues. For the most part, the answers to questions / issues should stand alone.

(Also please note: Alphanumeric marks (e.g. A or B7 or C6a) throughout this report indicate sub-sections of the report not paragraphs.)

Section #2

POINT of CLARIFICATION

The contractor was legally required to provide a final report on their service efforts for three specific reasons: 1) To provide an arena of fairness for the contractor to express his judgmental perspectives at the conclusion of this pilot program; 2) To ensure that the contractor had the opportunity to delineate his specific methods, statistics and calculations regarding the savings and benefits of reverse auctioning; and 3) To provide input from the contractor regarding advice, expertise and perspectives as an aid for USACE to conduct and evaluate this pilot program.

As stated previously, it should be noted that USACE is by no means in total agreement with the contractor's report. With regards to many judgmental statements as well as substantive calculations, there are indeed a significant number of differences in opinion between the USACE perspective on this pilot program and that of the contractor. Nonetheless, in the interest of fairness, this contractor report is fully included. Although, the contractor's report should be tempered with various qualifications, judgments, and caveats by USACE that will be evident from reading the full USACE report. However, at this time it is important that the reader take full notice regarding the issues presented in the important clarification issue provided directly below.

Point of Clarification

This was a USACE Pilot Program – NOT a contractor's pilot program. USACE was always in complete control of this pilot program and USACE alone "conducted" this pilot program. The contractor DID NOT "conduct" this program.

Contrary to an erroneous claim made up front in the contractor's executive summary, the contractor DID NOT "conduct" this pilot program to evaluate the use of e-Sourcing (reverse auctioning) for USACE'. This was a very presumptuous overstatement and an unfortunate choice of words that can easily imply very misleading, misguided, and erroneous ramifications. The contractor was only paid to provide a variety of reverse auction services for this pilot program, as well as his advice, expertise and perspectives – and that's all. So it is best to clarify this important issue up front.

It is important to clarify this issue with the fact that USACE conducted this pilot program through the standard exercise of 'corporate' interaction by all relevant senior command and staff members. Additionally, USACE a designated USACE Program Manager Program (LTC Albert A.J. Castaldo, Deputy PARC, USACE), who maintained and exercised the responsibility for ALL Program Management functions for the full duration of this USACE pilot program. It was also well-known throughout the relevant sections of USACE that the Program Manager was the designated (and personal) proponent to promote the use of reverse auctioning – and it is well known that LTC Castaldo took this responsibility very seriously.

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The USACE Program Manager was also in constant touch with specific functional representatives throughout USACE as well as the senior USACE leadership to garner their opinions, guidance, and ensure that this pilot program was conducted as a 'corporate' experience for USACE. At all times, all major program decisions, program direction, program modifications, program additions and deletions, to include program budget and payments were approved or directed by or through the USACE Program Manager. The 'corporate' nature of USACE alone reveals that the contractor DID NOT and could not be chartered to "conduct" this pilot program.

Under the terms and conditions of Contract GS-35F-0342K, it must be emphasized that the contractor was never a 'free-agent' nor a managerial agent with authority over any government employees at any time during this pilot program. The contractor was never chartered as an agent of USACE to "conduct" this pilot program, provide program management, program decision-making, or any leadership/managerial control over USACE or this USACE pilot program. The contractor was merely chartered to provide various reverse auction services for this pilot program— which the contractor did in all earnest.

The contractor was also contractually required to provide a summary report of all activities as their portion of the input for the overall USACE evaluation of this pilot program. As stated previously, this report was contractually required in order to provide 1) fairness to the contractor, 2) specificity of the contractor's method(s), and 3) input from the contractor regarding advice, expertise and perspectives as an aid for USACE to conduct and evaluate this pilot program.

In fact, the term "program manager" clearly had a very different definition for the contractor than that for USACE. The contractor's internal 'program manager' was assigned by a perfunctory internal decision from the contractor to provide a daily point of contact to the government. As it turned out, the contractor's internal program manager was not the major nor sole point of contact by the contractor for the government. However, the USACE Program Manager was the major point of contract, and with few exceptions, the sole point of contact for the contractor.

Additionally, the contractor's internal program manager was clearly not an executive level decision-maker for the contractor during the term of these contract services. The USACE Program Manager frequently met with people senior to the contractor's internal program manager – mid-level and senior contractor officials – in order to for the USACE Program Manager to provide command and control of this pilot program. Yet it should be recognized that the contractor's internal program manager did indeed provide very important coordination, liaison,

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communication and quality control functions for all the contractual services provided.

Unfortunately, this issue was not the only issue where the contractor exercised a poor choice of words within his final report. For example, the contractor also claimed that in his “conducting” this pilot program one of his goals was to “Develop and incorporate modern sourcing best practices within USACE.” This is yet another example of the contractor overstatements with regards to his responsibilities regarding the contract. Clearly, the contractor had no authority to “incorporate” any policies or procedures into USACE. Best practices, policies and/or regulatory incorporation are the sole purview and responsibility of USACE senior leadership and relevant senior staff elements. The contractor was welcome to make suggestions regarding any portion of the pilot program – and these suggestions were welcomed by the USACE Program Manager just as suggestions by USACE command and staff elements were also welcome. However, the contractor had NO authority over or within USACE regarding the “conduct” of any portion of this pilot program – other than control over contractor personnel.

Most importantly, the relevant USACE contracting officers involved always maintained and exercised all regulatory authority, control and decision-making over their assigned contracts involved in this pilot program. The contractor DID NOT exercise any authority, control and decision-making over the contracts involved in this pilot program. (This fact alone also reveals that the contractor DID NOT “conduct” this pilot program.)

It should also be noted that the contractor’s advice to the contracting officers regarding the operational dynamics on the interaction of reverse auctions to the contracts was not always the best advice. In once such case, the contractor’s advice to a contracting officer – specifically regarding the reverse auction process – resulted in a sustained protest against the USACE reverse auction. Such issues will not be discussed in detail. However, the actual protest decision is listed under Appendix Q.

The contractor was expected to officially provide input regarding his perspectives at the conclusion of the pilot program. And the contractor’s value judgments were indeed required and welcome as official input to the USACE evaluation process. However, the contractor was not chartered with authority to “Evaluate the value of e-sourcing in USACE contracting” – as this is something that only USACE can do.

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In summary, there are some erroneous claims in the contractor's executive summary and throughout his report that are overstatements from the product of an unfortunate choice of words, which project very presumptuous, misguided and misleading perspectives – and should be disregarded. When the reader encounters such overstatement, please place them into the right perspective and balance with regards to the issues and examples presented in this Point of Clarification.

Section #3

A Short Primer on 'Reverse' Auctions

Please Note: Reverse auctioning IS NOT a new form nor type of contract.

A Short Primer:

It must be remembered that at all times during any auction the sole focus is 'price'. The term 'reverse' auction stems from the fact that the process of a reverse auction seeks to drive bid prices down, while the process of a standard auction seeks to drive bid prices up. Other than price, there is no other operational focus in any auction.

Additionally, the roles and functions of the customer and merchant are also reversed. In a classic, standard auction, a sole merchant conducts the auction to attract multiple customer bids. In a reverse auction, a sole customer conducts the auction to attract multiple merchant bids. Under standard auctions, a single merchant seeks to 'sell' goods and/or services to the highest price from bids provided by multiple customers. Under reverse auctions, a single customer seeks the lowest bid-price from multiple merchants who compete for the privilege to provide/sell their goods and/or services to the sole customer.

Under this reverse auction methodology, there is an 'auction' process whereby responsible and responsive contractors offer multiple and consecutively lower bids on a rapid 'auctioning' basis to eventually arrive at the lowest bid-price of goods or services for the privilege of a standard contract award. In the case of government reverse auctions, the government follows very normal contracting procedures. The government publicly solicits for specific goods and/or services from responsible and responsive contractors to provide these specific goods or services. The reverse auction process simply is the method by which contractors submit their bids and the lowest bid is received. The award is then executed through a standard firm fixed price contract.

Yet, there is a major difference in the operational dynamics of the reverse auction methodology that is unlike anything available in the standard sealed bid process. In the standard sealed bid process, the contractor only gets only one chance to submit a bid. Additionally, the contractor does not know the relative ranking of his bid versus others during the bid process. Hence, in a standard sealed bid process, a contractor cannot bid-game, because he is forced to submit his best bid with only one chance to bid.

However, in reverse auctioning (like any other auction process) the contractor is provided with multiple, rapid chances to submit multiple, rapid bids. And, he does know the relative ranking of his bid versus the bids of other contractors between each round of bids. Hence, the contractor can engage in bid gaming from his very first bid to his very last bid, because he is not forced to play his very best hand up front due to multiple chances to bid. In fact, if the contractor becomes aware that he has already beat or about to beat all of his competitor's bids – then he is never forced to submit his "best" low bid in a reverse auction. This dynamic is the complete opposite from a standard auction where the winning bidder is never forced to play his best high bid. Conversely, in a

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reverse auction: It is never necessary for a bidder to provide his best low bid. It is only necessary for the winning bidder to game a bid that will beat his competitors. Hence, in a standard auction you never know how high the winning bidder was prepared to go. Likewise in a reverse auction you never know how low the winning bidder was prepared to go. A contractor bid-games no lower than necessary – not as low as he can go.

So although the direction of the price bids are reversed, and although the role of the merchant versus the role of the customer are reversed – the operational dynamics are concentric and the main focus of a reverse auction is identical to any other auction – and that primary focus is price – and only price.

Please Note again: Reverse auctioning IS NOT a new form nor type of contract.

Reverse Auctioning is a newly approved methodology for the government to obtain bids for providing goods and/or services through a standard firm fixed price contract. Essentially, various responsible and responsive contractors offer successive competitive bids through an auctioning activity that very rapidly arrives at the lowest available bid/price. In exchange for the lowest available bid/price via auction, the winner is given the privilege to provide the government with goods and/or services through a standard firm fixed price contract. The general claim by commercial providers of reverse auction technology and services is that reverse auctioning finds the lowest available market price for any good or service. Hence, the inherent main focus of reverse auctioning (as with any auction) is price.

Also it should be noted that the final result of a reverse auction methodology is identical in every way to that the final operational result from a seal bid process: A bidding process is used where an award is made to the lowest bidder and the government then enters into a standard fixed price contract with the winning bidder. Reverse Auctioning is merely an alternative contracting process, a choice in methodology, to obtain a standard firm fixed price contract. Reverse auctioning is a process, not a contract.

However, there are significant operational ramifications in the use of the reverse auctioning methodology that differ greatly from the operational dynamics of a sealed bid process. So a major question that must be addressed is whether or not reverse auctioning is significantly or marginally advantageous to any particular acquisition mission. This was the overarching question the USACE pilot program focused on.

'Desktop' reverse auctions (called 'Quick Source' by the contractor) are performed directly from the office-PC of the contracting officer – without any assistance or advice from the contractor. This is the most simple, technical approach to reverse auctions.

Full-Service [assisted] reverse auctions (called 'Full Source' by the contractor) are performed with direct assistance and advice from the contractor's staff to the contracting officer – using the contractor's facilities for the actual reverse auction bidding operation.

From the pilot program results, was there in fact a basis to claim that reverse auctions provide documented savings (significant or marginal) to include savings beyond the standard sealed bid process?

Within the acquisition dynamics of simple commodities, **yes**.

However, within the acquisition dynamics of Construction Services, **NO**.

This is a very complex question because of the dynamics of different acquisition genres. So it will be addressed accordingly, from the experience of the USACE pilot program.

Fundamentally, we must be cognizant that from all the operational and regulatory dynamics involved – government acquisitions by reverse auctions cannot be equated to “E-Bay” purchases.

A) Within the acquisition dynamics of simple commodities, yes, reverse auctioning can provide significant or marginal documented savings.

- The operational definition for commodities in this report would include basic raw materials [gravel, wood, liquid oxygen] and standard manufactured items where variability is nil, specification issues are fully defined, and quality issues completely controlled: e.g. simple spare parts [not complex sub-systems], standard office supplies (e.g. pens, paper, etc.), and facility accoutrements (e.g. furniture, modular offices, etc.)

When dealing with commodities, where the variability of specifications is exceedingly small or nil, there is generally a very significant historical database of previous sealed bid buys or publicly posted pricing. As a result, this documented contracting history provides a very clear record for direct price comparisons between one buy to another for identical goods – irrespective of methodology utilized to obtain bids. In the very limited experience of buying commodities through reverse auctions, USACE found that it could expect significant savings (18% - 30%) by using reverse auctioning instead of standard sealed bidding.

Yet in reality, it must be understood that reverse auctioning cannot consistently produce ‘consecutive’ significant savings (savings on top of saving on top of savings) for consecutive buys of the same identical commodity. Once a fair and reasonable market price is reached for a specific commodity, it cannot be expected to drop continuously time after time after time. At a very rapid point using reverse auctioning, the general market price for any commodity may hit a permanent plateau. Contractors cannot be expected to sell goods at pure cost or a loss to the government as this violates the doctrine of a fair a reasonable price.

Additionally, reverse auctioning does not save time – it costs more time because it is more labor intensive. And the issue of ‘savings’ in terms of manpower/man-hours cannot be ignored as government budgets and contracting personnel are continuously reduced.

Reverse auctioning is a much more labor-intensive method to utilize than the sealed bidding process. After engaging reverse auctioning and a fair and reasonable market price is generally validated for a specific commodity, reverse auctioning may not be the most efficient nor effective method to utilize. Under such circumstances, this is a judgmental issue that only an experienced contracting officer can determine based upon detailed industrial knowledge of buying specific commodities – versus the existing workload and the number of available contract administrators in the workforce.

However, this does not detract in any way from the strategic use of reverse auctioning as a random reality check to ensure that simple commodities are being sold to the government at a fair and reasonable market price (devoid of unnecessary inflation). USACE should continue to foster the strategic use of reverse auctioning for any and all ‘unregulated’ commodities (commodities which have no contractual process restrictions as directed from government policies or regulations).

B) However, within the acquisition dynamics of Construction Services, NO, USACE could find no factual, significant or marginal savings in the use of reverse auctioning methodology over the standard sealed bid process. In fact, the pilot program experience revealed that the exact opposite may be true. There are several major problems with this entire issue.

B1) There is NO valid, standardized method by which ‘savings’ can be measured with any consistency when using the reverse auction process.

There are a variety of methods by which savings can allegedly be measured using reverse auctioning. However, there is NO standardized industrial, commercial or governmental agreement on how to measure any savings via reverse auctioning. The reason for this is that, absent specific price history for an identical project under identical conditions, there are serious flaws in all of the theories behind the available methods.

More importantly, in the absence of specific price history for an identical project under identical conditions – there is NO practical way to measure or compare any projected savings by reverse auctions over sealed bidding.

This is an extremely important point because the overwhelming majority of the USACE mission for Construction Services is focused on different one-of-a-kind projects under different one-of-a-kind conditions. Construction Services almost exclusively consist of different one-of-a-kind projects under different one-of-a-kind conditions – and therefore – Construction Services cannot be equated to the highly controlled conditions of commodities, manufactured goods, or basic raw materials.

- It is the consistency of identical products under identical conditions from the manufacturing of spare parts or basic raw material that allows for the development of a consistent yardstick to measure savings through reverse auctions over sealed bidding.

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- It is precisely the inconsistency of Construction Services from the inherent nature of different one-of-a-kind projects under different one-of-a-kind conditions – that prevents the development of any consistent yardstick to measure savings through reverse auctions over sealed bidding.
- So without identical products/projects under identical conditions an identical, consistent yardstick to measure savings via reverse auctions cannot be developed. (Essentially, the reality of the logic is very simple: You can't measure apples by oranges; you can't measure oranges by bananas, and therefore, you can't measure apples by bananas.)

B2) In looking at the five most popular 'theories' on how to measure savings by reverse auctioning, we find the following:

- Method #1: The difference between the first bid offered versus the lowest winning bid.
- Method #2: The difference between the initial low bid (the first low bid by any of the competing contractors) versus the lowest winning bid.
- Method #3: The difference between the second to last bid by the winning bidder versus the last (winning) bid by the winning bidder.
- Method #4: The difference between the Government Cost Estimate and the winning bidder. (This method can yield both positive and negative results. See below)
- Method #5: The negative difference the winning bid versus the best bid possible that was never presented at auction – because it wasn't necessary to do so. This is referred to as "the bid you'll never see" (and this all revolved around the issue of bid gaming).

B3) Analysis with regards to Method #1 and Method #2: (See graphic example at B6a.)

Construction contractors do not engage a reverse auction naively – construction contractors engage a reverse auction strategically. Ergo, reverse auctions by their very nature promote 'bid gaming'. A contractor purposely does not offer his best bid on his initial bid in a reverse auction specifically so that he can see the relative cards of all the other players. There are multiple rounds of bidding to engage as well as a variety of significant non-price factors that a construction contractor must consider in a very rapid manner when entering successive reduced bids during a reverse auction. (These significant cost and non-cost factors that a construction contractor must consider in a very rapid manner will be addressed later.) So quite clearly, all initial bids are highly suspect for use in projecting any claim of savings through reverse auctions because of the bid-gaming involved.

Moreover, 'bid gaming' does not end with a contractor's initial bid. 'Bid gaming' continues throughout the entire reverse auction process – even to the last winning bid.

Remember, in a reverse auction the name of the game is 'how low do I have to game?' and not necessarily 'how low can I afford to go?' The goal is to leave as much money on the table as possible – not take as much money off the table as possible.

Please Note: To the untrained eye (or those who get emotionally involved in the rapid dynamics of the actual bidding process), bid-gaming while the auction is in progress is not readily apparent. Bid-gaming can only be best understood from a non-emotional analysis in review of all the auction facts – or from inside the contractors' perspectives.

B4) Analysis with regards to Method #2: (See graphic example at B6a.)

There is really no mathematical difference for this method in reverse auctioning versus sealed bidding: Take the difference between any of the 'initial' bids by all the other bidders versus the winning bid and project a savings. Yet as mentioned previously, the initial bids in a reverse auction are all highly suspect to 'bid gaming'. There is no reason to show your best hand or even a good hand during the initial bid in a reverse auction.

- (E.g. In several USACE reverse auctions, bidders submitted initial bids that were millions more than other initial bids. Clearly, the bidder was engaging in 'bid gaming' tactics to force others to expose their relative hands without having to expose his during the initial bidding round. In fact, there are several graphs in Appendix Q where it is evident that bids actually started significantly higher than all others...off the graph)

However, there is a very significant operational dynamic at play with sealed bidding that is not present with reverse auctioning: → In sealed bidding, the contractor cannot 'game' his one and only bid. In a sealed bid process, a contractor gets one and only one chance at a winning an award. With sealed bids, the contractor can only ask the question 'how low can I afford to go?' in order to win. As mentioned previously above, in a reverse auction ALL initial bids are quite suspect to 'bid gaming' – and every bid is suspect to the question: 'how low can I game this bid?'

B5) Analysis with regards to Method #3, once again this begs the entire issue of 'bid gaming'. Toward the very end of any auction the majority of bidders tend to drop out. At the point of competing with only one competitor, the winning 'bid game' is exclusively 'how low do I have to game?' – not 'how low can I afford to go?' In a reverse auction, the winning bidder never has to play his best cards – he only has to submit a bid that beats the others. In a sealed bid process, bidders get only one and only one chance to play their best cards – there is no second chance and no 'bid gaming' available. (See graphic example at B6a.)

(*Vignette for Thought: The USACE Program Manager for this pilot program had relevant experience as a former Director of Engineering and Housing. A sealed bid solicitation was made for a roofing contract with a government cost estimate of about

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\$300K, which also included price history as a factor. Sure enough, almost all of the bids came in at around \$300K – except for one bid that came in a \$200K. This bid came in from a new contractor, and so there was great concern that the bidder was ‘buying in’ into the contract. The other contractors were so sure of the validity of their bids that they all officially complained the contract could not be performed for such a significantly lower price. However, it was. As it turned out, the winning contractor provided exceptional cost, schedule and performance by all standards. Towards the end of the contract the government quality inspector asked the contractor how it was possible that his winning bid was a 33% below all of the other bids. The contractor only replied: What can I say – maybe you’ve been hoodwinked on this construction service for years. I had only one chance to play my best cards and I did – and I made a fair profit.”

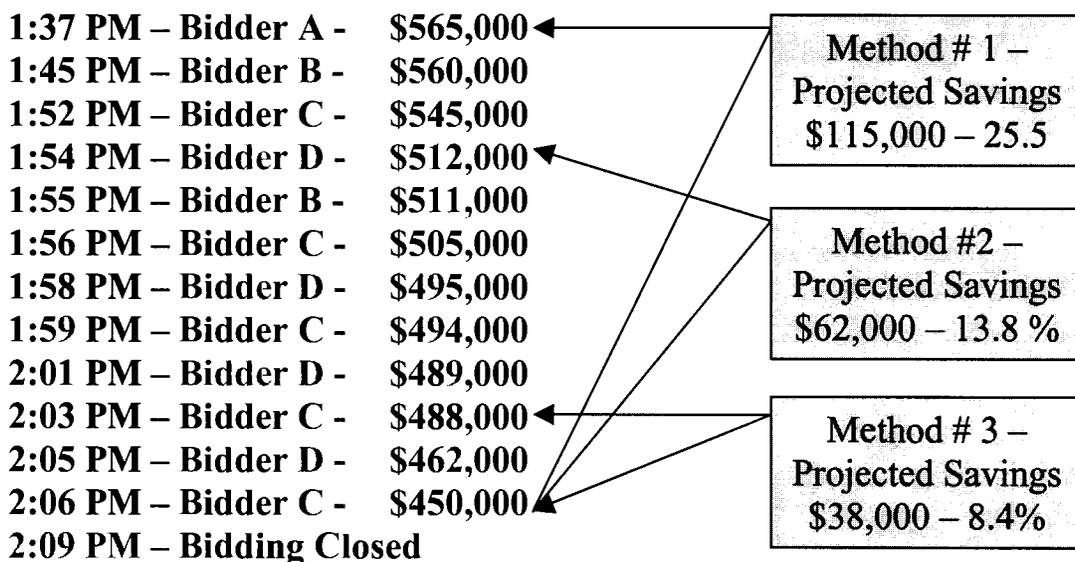
The point of this vignette is in specific regards to Methods #1, #2, & #3 above and the issue of ‘bid gaming’. Did the winning contractor have a much better cost control or estimating system? Would reverse auctioning at a sooner point in the acquisition history of this construction service have produced better results? We’ll never know.

But what we do know is that under a reverse auction with this disparity in bids versus the historical database – this winning contractor would have had no incentive to play his best cards. He would only have to make the minimum bid necessary to win the award. He could have stopped bidding at only the lowest bid necessary to win – not his best bid. So there would have still been significant money left on the table.

Of course the problem with any analysis of this condensed vignette is also actually identical to the analysis of projecting savings in reverse auctions – there are just too many variables.

B6a: Graphic model of Methods #1, #2, & #3 are directly below.

*Community Teen Center – Opens at 1:30 PM – Closes at 2:00 PM
with unlimited 3 min extensions – with minimum bid increments of \$1000*



B6b) Analysis with regards to Method #4: (See graphic example at B6c.)

Government cost estimates are extremely important especially to the budgeting process. However, government cost estimates are 'estimates' – NOT bids. It is not at all unusual to find that a Government Cost Estimate is either too high or too low. Once again, there are a variety of cost as well as non-cost factors that influence a contractor's bid – that a government estimator may never have knowledge about. And once again, this issue is further complicated by the fact that Construction Services are almost exclusively services for a different one-of-a-kind product/project constructed under different one-of-a-kind conditions. Some of those conditions are known to the Government estimators and all others – while other conditions are internal to the winning contractor and only known to the winning contractor.

Please Note: The contractor's report made a specific claim in his statement of program results that he had based the calculations of savings via reverse auctions by the simple formula of: Savings = the difference between Govt Value and Final Low Bid. See Page 6 of the contractor's report at Section #10.

However, a close examination reveals that the contractor was highly inconsistent in the various methodologies that he used to project a savings from reverse auctions. The contractor's stated method (Method #4, above) simply does not align with the reality of the calculations from actual numbers he presented. However, the contractor always projected a savings from reverse auctions – even though he had to use inconsistent measuring methods to do so.

This of course only goes to prove the crucial point presented in paragraph B1 above: It is precisely the inconsistency of Construction Services from the inherent nature of different one-of-a-kind projects under different one-of-a-kind conditions – that prevents the development of any consistent yardstick to measure savings through reverse auctions over sealed bidding.

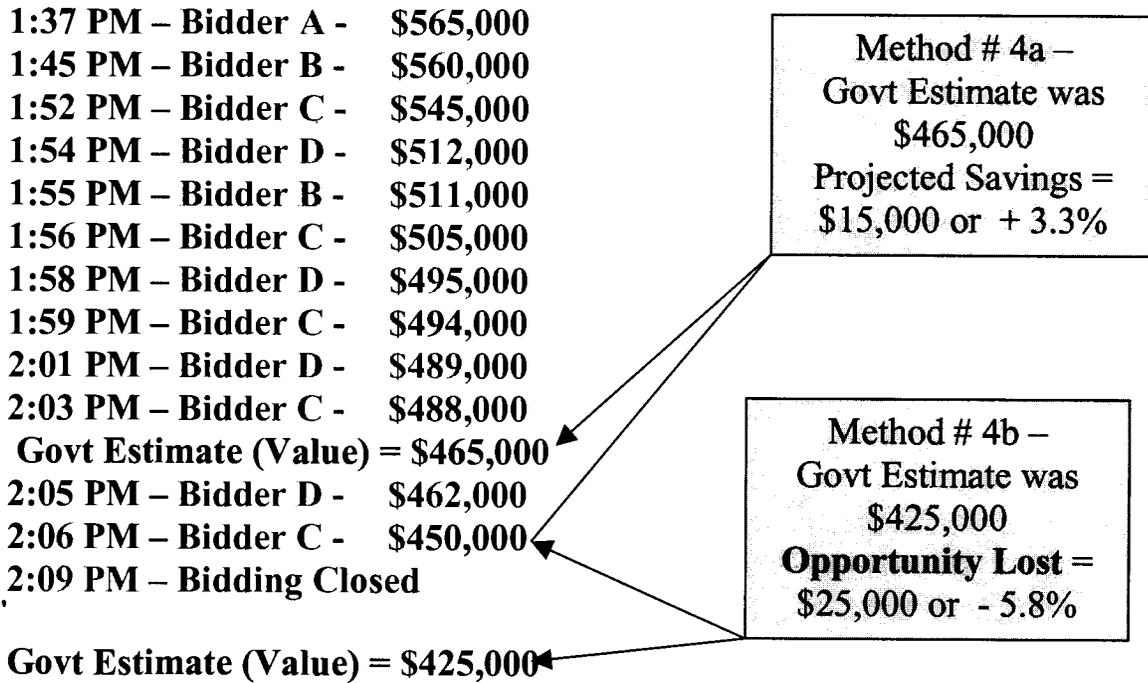
If a consistent, valid measuring method for savings from reverse auctions was available then without doubt the contractor would have used it – and he would have used it consistently. However, a consistent valid method simply doesn't exist – and so the contractor didn't have a consistent valid method to project any savings.

However, the major reason that the contractor did not consistently use his stated method – was that to do so would have revealed that, in 3 of the 6 full service [assisted] reverse auctions at USACE, the contractor's stated method to measure savings reveals a government LOSS through reverse auctioning – NOT any savings. And these government losses ranged from a 5.1% loss to an 18.2% loss.

For a further detailed explanation, please read the entire sub-section B7 – Point of Clarification on Contractor’s Savings Calculations further below.

B6c: Graphic +/- models of Method #4 are directly below.

*Community Teen Center – Opens at 1:30 PM – Closes at 2:00 PM
with unlimited 3 min extensions – with minimum bid increments of \$1000*



B6d) Analysis with regards to Method #5 – The bid you’ll never see: The negative difference the winning bid versus the best bid possible that was never presented at auction – because it simply wasn’t necessary to do so. (See graph at B6e.)

As mentioned previously above, reverse auctions by their very nature promote ‘bid gaming’. A contractor purposely does not have to offer his best bid on any successive bid in a reverse auction specifically so that he can ‘bid game’ relative cards of all the other players. ‘Bid gaming’ does not end with a contractor’s initial bid. ‘Bid gaming’ continues throughout the entire reverse auction process – even to the last winning bid. Remember, in a reverse auction the name of the game is ‘how low do I have to game?’ and not necessarily ‘how low can I afford to go?’ The goal is to leave as much money on the table as possible – and not take any unnecessary money off the table.

The result in Method #5, is that the contractor offers each bid NO lower than he has to – the absolute minimum to win an award. The contractor can afford to ‘bid game’ because he can see the relative cards of all the other players – when the bids start to slow down and when the bids start to creep down. (Please re-read the Vignette for Thought above.)

B6e: Graphic model of Method #5 is directly below.

*Community Teen Center – Opens at 1:30 PM – Closes at 2:00 PM
with unlimited 3 min extensions – with minimum bid increments of \$1000*

1:37 PM – Bidder A - \$565,000
1:45 PM – Bidder B - \$560,000
1:52 PM – Bidder C - \$545,000
1:54 PM – Bidder D - \$512,000
1:55 PM – Bidder B - \$511,000
1:56 PM – Bidder C - \$505,000
1:58 PM – Bidder D - \$495,000
1:59 PM – Bidder C - \$494,000
2:01 PM – Bidder D - \$489,000
2:03 PM – Bidder C - \$488,000
2:05 PM – Bidder D - \$462,000
2:06 PM – Bidder C - \$450,000
2:09 PM – Bidding Closed

Method # 5 –
The one you'll never see –
Bidder C was willing to bid
\$430,000
Opportunity Lost =
\$20,000 or - 4.4%

X But Unknown Low Bid =
{ \$430,000 }

X ?

B7a) Point of Clarification on Contractor's Savings Calculations:

USACE is not really sure as to which method the contractor actually believes should be used to project government savings from reverse auctioning, because the contractor was highly inconsistent in his methodology of calculating the numbers versus his stated presentation of program results. A close examination reveals that the contractor's stated method does not align with the reality of calculations from the actual numbers he presented.

At page 6 of the contractor's report (Section #10), the contractor was very clear in his statement of program results that : Savings = the difference between 'Govt Value' and the Final Bid.

And from an examination of the auction synopses at Appendix O versus the chart on page 6 of the contractor's report, we can clearly determine that the term 'Govt Value' is defined as the Government Cost Estimate. Therefore, there is no doubt that the contractor professes to use Method #4 (as described and analyzed above) – which is the difference between the Government Cost Estimate and the winning lowest bid. However, the contractor is not consistent in his presentation of the calculations versus his statement of program results.

Although, the contractor clearly states that: Savings = the difference between 'Govt Value' and the Final Bid – the contractor failed to consistently use his stated method → whenever the use of this method produced a loss for the government. Instead, the contractor apparently switches back and forth to use whatever method will allow the contractor to claim a savings one way or another by reverse auctioning.

Hence, from the documented, verifiable facts, we can clearly make several conclusions:

- 1) The contractor had NO consistent faith in his own measurement method for projecting savings as attested to in his specific statement of program results. Otherwise, the contractor would have used his stated measurement method consistently, and he would have been able to explain any variations or irregularities within the confines and dynamics of his stated method.
- 2) The contractor was quite aware that his stated method did not produce consistent savings results, because:
 - a. The contractor presents his basic auction figures (without any proof of calculations) on the exact same page in his report that he states his method for measuring savings. (Page 6 of the contractor's report.)
 - b. Despite the specific method attested to in his statement of program results, the contractor does not attest to a specific method for measuring savings in Appendix O where he presents a basic synopsis of each reverse auction.
 - c. At Appendix O, in the synopses for each reverse auction, the contractor presents various inconsistent calculations for savings rather than just consistent one method and one calculation.
 - d. Most revealing is the fact that at Appendix O, in the synopses for each reverse auction, the contractor fails to mention any results by his stated program method wherever his stated program method produces a loss and not a savings. (E.g. Projects #9799 and #9473.)
 - e. In short, the contractor really never had a consistent program method for projecting savings by reverse auctions in Construction Services.
- 3) From the preponderance of the documented evidence, the contractor is well aware that it is precisely the inconsistency of Construction Services from the inherent nature of different one-of-a-kind projects under different one-of-a-kind conditions – that prevents the development of any consistent yardstick to measure savings through reverse auctions over sealed bidding.
 - Please refer to sub-sections B7b through B7d for a more detailed explanation of the calculations that reveal a government loss by the using the contractor's stated method for projecting savings.

- **B7b) Reference the entry on Page 6 of the Contractor's Report for a Norfolk District contract regarding a Medical Logistics Warehouse.** This entry clearly claims a savings of \$478,000. And on the very same page the contractor clearly states that: Savings = the difference between 'Govt Value' and the Final Bid. (Method #4). Yet the contractor's calculations for this savings use Method #2, not Method #4, as clearly stated in the program results on the same page.

- As stated above, Method #2 is the difference between the initial low bid (the first low bid by any of the competing contractors) versus the lowest winning bid a result that is clearly subject to bid-gaming.

In fact, if the contractor had been consistent with his stated program results and had actually used his stated method of Savings = the difference between 'Govt Value' and the Final Bid (Method #4 above) – then the contractor would have to have show a government loss of \$355,941 – or a government loss of 18.2%.

- This actual result is calculated according to the contractor's stated program results of Savings = the difference between 'Govt Value' [+\$2,066,059] and the Final Bid [+\$2422,000] which yields a negative result of -\$355,941 above the Govt Value which is a minus/loss of 18.2%.

- **B7c) Reference the entry on Page 6 of the Contractor's Report for a Omaha District contract regarding a Minneapolis Lodging Facility.** Once again, the contractor's calculations for savings are NOT consistent with his stated program results. Had the contractor actually used his stated method of Savings = the difference between 'Govt Value' and the Final Bid (Method #4 above) – then the contractor would have to have show a government loss of \$197,756 or a government loss of 5.1%.

- This actual result is calculated according to the contractor's stated program results of Savings = the difference between 'Govt Value' [+\$3,875,100] and the Final Bid [+\$4,072,856] which yields a negative result of -\$197,756 above the Govt Value – which is a minus/loss of 5.1%.

- **B7d) Reference the entry on Page 6 of the Contractor's Report for a Louisville District contract regarding Cantonment Fencing.** An examination of Appendix O, Project Number (CBE): 10094, reveals that the Government Estimate is actually listed as \$4,435,197, then somehow it is changed to \$4,893,589 – which is then misstated even further back on Page 6 of the contractor's report as \$4,893.59 (?).

- Once again, the contractor's calculations for savings are NOT consistent with his stated program results. Had the contractor actually used his stated method of Savings = the difference between 'Govt Value' and the Final Bid (Method #4 above) – then the contractor would have to have show a government loss of \$248,704 or a government loss of 5.6%.
- This actual result is calculated according to the contractor's stated program results of Savings = the difference between 'Govt Value' [+\$4,435,197] and the Final Bid [+\$4,683,901] which yields a negative result of -\$248,704 above the Govt Value – which is a minus/loss of 5.6%.

C) The crucial point in exposing these significant contractor inconsistencies and discrepancies is to support the critical fact previously mentioned: Construction Services cannot be equated with or treated as commodities such as spare parts, manufactured goods or basic raw materials.

D) However, by significant contrast, please review the calculations for the simple, 'unassisted' desktop version of reverse auctions (listed in Appendix O as Quick Source™ #1002, #1004, and #1005 – or see page 6 of the contractor's report for the Savannah, Huntsville, and Great Lakes District contracts). These actions are for simple commodity type materials (e.g. liquid oxygen, furniture). There were numerous bids (as many as 99). The documented price history or publicly post pricing for these non-variable items reveals an actual valid savings that ranges from 18% to 30% from reverse auctioning.

E) Within the parameters of this pilot program, the whole point of this laborious (yet very condensed) analysis of very different methods to project savings for reverse auctions boils down to **one and only one conclusion: There is NO valid method to project 'savings' by the use of reverse auctions for Construction Services.**

- Different methods produce different results – and – different conditions produce different results. Clearly, the contractor paints an erroneous picture where there is always a savings from reverse auctioning. However, the contractor was not able to do this by using a consistent method for calculations – simply because there is NO valid method that will show a consistent savings by reverse auctions for Construction Services.
- Without a highly controlled situation, where there is a historical database for identical construction services under identical conditions, there is NO valid basis to claim that reverse auctioning establishes significant or even marginal 'savings'.

F) And within the parameters of this pilot program, this issue is especially true in that **there is NO valid basis for reverse auctioning to claim any significant or marginal savings beyond any other contracting process such a sealed bidding for Construction Services.**

- There are no facts presented by the USACE pilot program to support such a claim. There are no documented, verifiable facts presented by the contractor to support this claim.
- Additionally, there are NO controlled comparative studies (under the parameters of governments regulations) that can support any claim for reverse auctioning to produce any significant or marginal savings beyond any other contracting process such a sealed bidding. Moreover, under the current restrictions of government regulations, it may be impossible to structure and produce a reliable controlled study to examine this issue.

Was the reverse auction process more or less efficient and effective than the standard sealed bid methodology?

(Given that both produce the same final operational result.)

Both reverse auctioning and sealed bids are competing processes that produce the final result of a standard firm fixed price contract. However, the reverse auction process is a significantly more complex and labor intensive process that requires significantly more manpower/man-hours to execute in comparison to the simple sealed bid process. Therefore, the issue of efficiency and effectiveness can only be answered in terms of the overall reverse auction results – to include the necessary administrative labor as an independent variable.

A) From the analysis and documentation presented in Report Issue #1, sub-items A and D, and from the experience of this pilot program, reverse auctioning can be a very efficient and effective method to procure commodities where the primary focus is to achieve a price reduction.

(The operational definition for commodities in this report would include basic raw materials [gravel, wood, liquid oxygen] and standard manufactured items where variability is nil and quality issues are fully defined and controlled: e.g. simple spare parts [not complex sub-systems], and office supplies (to include furniture and modular offices.)

However, this statement must be qualified and balanced with a previous statement in that it must be understood that reverse auctioning cannot consistently produce ‘consecutive’ savings (savings on top of saving on top of savings) for consecutive buys of the same identical commodity. Once a fair and reasonable market price is revealed for a specific commodity it cannot continue to drop continuously. Contractors cannot be expected to sell goods at pure cost or a loss to the government as this violates the doctrine of a fair a reasonable price.

Once a fair and reasonable market price is generally known for a specific commodity, reverse auctioning may not be the most efficient nor effective method to utilize. Although, this is a judgmental issue that only an experienced contracting officer can determine based upon detailed industrial knowledge of buying specific commodities.

Yet, this does not detract in any way from the strategic use of reverse auctioning for commodities as a reality check to ensure that simple commodities are being sold to the government at a fair and reasonable market price (devoid of unnecessary inflation). USACE should continue to foster the strategic use of reverse auctioning for any and all ‘unregulated’ commodities (commodities which have no contractual restrictions from government policies or regulations).

B) However, this issue is an entirely different matter with respect to the acquisition of Construction Services.

As evidenced from the analysis and documentation presented in Section #4, Report Issue #1, sub-sections B, C, E, and F, as well as from the experience of this pilot program → **reverse auctioning is neither an efficient nor effective method to procure Construction Services.** And this is apparently so even when the primary focus is to achieve price reduction. When one compares the manpower/man-hours necessary to achieve a competent reverse auction versus the unproven and highly questionable outcome in price savings – there is neither a valid or documented claim for efficiency or effectiveness over the standard sealed bid process.

C) Additionally, as just previously mentioned, the fact that the reverse auction methodology is much more complex and labor intensive than the simple sealed bid process is a crucial factor to and already downsized and over-burdened acquisition workforce. This issues is quite obvious as the reverse auction is much more complex for the contracting officer to run.

There is considerably more time involved for the preparation and execution of reverse auctions. Reverse auctions must be coordinated, controlled, managed and concentrated on by the contracting officer, who is the only authority that can make decisions during a reverse auction.

In contrast, the standard sealed bid process can be characterized as a “set it and forget” method – bids are solicited and then due at a specific date/time/location. Moreover, contract administrators can be tasked with the responsibility to handle the overwhelming majority of work for a sealed bid process. The simplicity of the sealed bid process only requires a contracting officer’s direct concentrated involvement at the very end of a ‘black & white’ simplistic process when a final decision authority is necessary. Whereas, a reverse auction requires the contracting officer’s concentrated focus and authority.

This additional work for the government workforce cannot be ignored in any analysis of whether or not reverse auctions are efficient and effective → especially if there are only marginal or, worse yet, negative returns and no ‘savings’ from the reverse auction process.

D) DOD procurement has progressed significantly over the last two decades, and one of the major lessons learned has been that “one size does not fit all”. The specific type of acquisition strategy, plan, process and type of contract not only have to fit the procurement circumstances and nuances – they also have to be believed in by the professional acquisition workforce. Given the specific circumstances and nuances of each acquisition, there are many factors (the appropriate acquisition, strategy, plan, process, and the appropriate form of contract) that all fall within the realm of professional judgments. ALL such professional judgments are best left to the contracting officer who

is the only one that can exercise the authority for any specific contract – and/or the program manager who is the only one that accept full responsibility for any given project.

E) The unproven and inconsistent nature of reverse auctions in certain acquisition genres (e.g. Construction Services) cannot be ignored as a reluctance factor. Likewise the increase in required man-hours may also be a critical factor in any perceived reluctance by the government's professional contracting community to use a more labor intensive, complex, "unproven" methodology over a more proven, simplistic, less labor intensive process. Professional judgment may also be a critical factor where a specific process may not adequately fit the circumstances and nuances of a particular procurement.

➤ From the perspective of practicality, its very hard to answer a contracting officer or a contract administrator when they pose the valid question:

"If it takes more time and it doesn't save money – then why should I use a reverse auction?"

CAVEAT – once again:

As stated previously in the USACE Executive Summary of this report: Reverse auctioning IS NOT a new form nor type of contract.

Reverse Auctioning is a newly approved methodology for the government to obtain goods and services through a standard firm fixed price contract. Essentially, various responsible and responsive contractors offer various competitive bids through an auctioning process that quite rapidly arrives at the lowest available bid/price. In exchange for this the lowest available bid/price via auction, the winner is given the privilege to provide the government with goods and/or services through a standard firm fixed price contract. The general claim by contractors that provide reverse auction services is that reverse auctioning finds the lowest available market price for any good or service.

Also it should be noted that the final result of a reverse auction methodology is identical in every way to that the final result from a seal bid process: A bidding process is used where an award is made to the lowest bidder and the government then enters into a standard fixed price contract with the winning bidder. Reverse Auctioning is merely an alternative contracting process, a choice in methodology to obtain a standard firm fixed price contract. Reverse auctioning is a process, not a contract. However, there are significant operational ramifications in the use of the reverse auctioning methodology that differ greatly from the operational dynamics a sealed bid process. So a major question that must be addresses is whether or not reverse auctioning is significantly or marginally advantageous to any particular acquisition mission. This was the overarching question that this USACE Pilot Program focused on.

Was the reverse auction process frictionless and/or compatible with all significant USACE mission factors?

For USACE commodity procurements – as a strategic acquisition tool, **Yes**.

For the USACE acquisition of Construction Services – **NO**.

Although this is a simple question to ask, it requires a complex and lengthy answer because of the myriad of operational dynamics involved in the vast and complex mission of USACE.

A) If the primary focus of any commodity procurement is the lowest price – and the lowest price alone – then the use of reverse auctioning can be a very productive strategic acquisition tool to use for commodity procurements. The use of reverse auctioning for commodity procurements has clearly shown the real possibility to produce significant savings. So as a strategic acquisition tool, reverse auctioning can, at times, serve all the ‘commodity’ procurement mission factors for USACE.

However, as previously mentioned, reverse auctioning cannot be expected to consistently produce significant ‘consecutive’ savings (savings on top of saving on top of savings) for consecutive buys of the same identical commodity. Once a fair and reasonable market price is determined for a specific commodity, it cannot be expected to drop continuously time after time after time through the use of reverse auctions. At a very rapid point using reverse auctioning, the general market price for any commodity may hit a permanent plateau from cost and non-cost factors. (That is, if a specific commodity hasn’t already hit a market price plateau from the effects of competitive sealed bidding.) Contractors cannot be expected to sell goods at pure cost or a loss to the government as this violates the doctrine of a fair a reasonable price.

(Also please read Section 4, Report Issue #1, sub-section A of this report.)

B) However, if the primary focus is the acquisition of Construction Services consisting of different one-of-a-kind products/projects under different one-of-a-kind conditions → then reverse auctioning does not serve the USACE mission factors very well at all.

PLEASE NOTE: In a July 2003 memorandum, the Office of Federal Procurement Policy recently emphasized the issue and significance of variables in Construction Services. The OFPP Executive Administrator Angela Styles recognized and agreed that construction services cannot be equated to the controlled and consistent nature of commodities or manufactured goods when she acknowledged that “new construction projects and complex alteration and repairs...involve a high degree of variability,

including innumerable combinations of site requirements, weather and physical conditions, labor availability and schedules”. And that’s just to name a few.

Additionally, this memorandum stated that: “Increased risk could also discourage contractors from bidding on federal projects.” Without doubt, because of the operational dynamics in reverse auctions that are generally not present in sealed bids – the increased risks from a rapid and unwise reverse auction bidding process could also discourage contractors from bidding on federal projects. And this concern has already been voiced very loudly from the contractor community.

DOD contracting has long since progressed from non-productive, dogmatic thinking that one size fits all. As such it no longer exercises the erroneous and misguided reasoning that the best stewardship focus in procurement is always the lowest price. In fact, in recent years we have learned that the best stewardship of complex or unique acquisitions is much more often a ‘Best Value’ method and the not lowest price. The backbone concept of a ‘best value’ procurement is that the evaluation other non-price factors as well as price constitute the basis for an award. In a ‘best value’ procurement, price may not be the sole nor the major factor for determining an award. In a ‘best value’ procurement, price/cost simply becomes one of many independent variables for review and evaluation to determine the best award.

Due to the inherent nature of Construction Services that are one-of-a-kind projects executed under one-of-a-kind conditions regarding salient **variable** cost and non-cost issues, the most productive form of procurement vehicle for such acquisitions is a ‘best value’ method – which can employ several sub-processes of which standard sealed bids and reverse auctions are only a few of the choices available for a ‘best buy’ award.

However, by its very nature, reverse auctioning focuses solely on the lowest bid – and the lowest bid alone. The reverse auctioning process CANNOT focus on the ‘best value’ process. This specific and sole focus of the reverse auctioning process on lowest bid price – and lowest bid price alone – inherently gives the inappropriate appearance that a government acquisition solicited as a ‘best value’ buy is not really a ‘best value’ buy. Instead, it portrays the appearance of a ‘hidden agenda’ for price (not best value) because the major public display of action is concentrated on a reverse auction process that is focused on lowest bid price – and lowest bid price alone. Hence, the public appearance of a reverse auction is inherently inconsistent with the public proclamation of a ‘best value’ buy – and this is the wrong public message to send to contractors when pursuing a ‘best value’ buy.

C) Additionally, the use of reverse auctions does not well serve the proper consideration of any non-price factors. And non-price factors may turn out to be critical factors beyond price even in a price-oriented procurement. After all of the preparations are completed,

the actual reverse auction bidding process is a highly rapid activity. Whether or not 'bid gaming' is involved, a valid contractor cannot be a competent competitor in a reverse auction unless he has studied his cost factors with scrutiny – along with adequate time to reconsider all the significant cost and non-cost factors when submitting a substantial bid reduction.

There is a very serious concern that the actual reverse auction bidding activity proceeds at such a highly rapid rate (normally less than a minute between bids) that in many cases even highly competent contractors cannot properly focus on, nor compute, nor comprehend the actual, interactive domino effects that lowering any bid will have upon all of the salient **variable** cost and non-cost factors involved with any construction service project. In such cases, the rapid bidding process in a reverse auction simply does not provide competent contractors with the proper time necessary to make well-estimated bids on complex one-of-a-kind construction services.

D) The list of salient **variable** cost and non-cost factors that can have a very serious effect upon any one-of-a-kind construction project is quite extensive. The following list is provided as an example and is by no means a comprehensive list as the individual circumstances and nuance of each construction project determine the salient **variable** cost and non-cost factors. This list should be viewed not only as to what is known about these factors before bidding – but what is unknown about these salient **variable** cost and non-cost factors until after construction begins:

- Rigid quality specifications
- Weather
- Safety requirements from unforeseen issues
- Existing and unknown site conditions
- Site mobilization requirements
- Excavation borrow areas & haul roads
- Availability and use of utility services
- Contractor temporary facilities (cofferdams)
- Security provisions and base access
- Installation regulations
- Environmental protection & contamination issues
- Partial occupancy issues
- Project phasing restrictions/impediments
- Restrictions and impediments to Performance scheduling
- Construction schedule constraints
- Facilities access
- Layout of facilities and buildings
- Work outages

E) There are several significant points regarding this list of salient **variable** cost and non-cost issues:

- 1) Construction Services ARE NOT manufacturing services. Construction Services cannot be performed under the control and consistency of identical manufacture products under identical manufacturing conditions.
- 2) The inherent interactive effects from the variability in cost and non-cost factors of Construction Services have a severe effect upon accurate computation of competitive bids for such services.
- 3) It is also extremely rare that are multiple identical construction service projects – much less multiple identical construction service projects executed under identical conditions.
- 4) This list interaction of these items becomes even more important when dealing with one-of-a-kind Construction Service projects.
- 5) The overwhelming majority of USACE Construction Services are one-of-a-kind projects executed under one-of-a-kind conditions regarding salient **variable** cost and non-cost issues.
- 6) The inconsistency and extensive variability in these salient Construction Service issues produce one-of-a-kind conditions that are virtually impossible to compute into any rapid auction bidding process (with regards to lowering a bid) even if the solicitation is for multiple, identical construction projects under non-identical conditions.
- 7) ‘Best Value’ acquisitions are indeed the best way to procure Construction Services, which are one-of-a-kind projects executed under one-of-a-kind conditions regarding salient **variable** cost and non-cost issues.
- 8) The highly rapid nature of bidding activity inherent to a reverse auction process does not well serve the pursuit of ‘best value’ buys for the overwhelming majority of USACE Construction Services, which are one-of-a-kind projects executed under one-of-a-kind conditions regarding salient **variable** cost and non-cost issues.
- 9) If there is a judgment by the contracting officer that the inherent nature of a specific Construction Service project may somehow be best served by multiple bids – then the unique inherent nature of Construction Service projects would be better served by existing standard procurement regulations where contractors are given considerable time (not seconds) to review the salient **variable** cost and non-cost issues and then submit a ‘Best and Final Offer’ (RFP with BAFO procedures).

F) Additionally, USACE had to take into consideration the protest that was lodged and sustained from a reverse auction in this pilot program. Although the contractor initially portrayed the reverse auction process as virtually protest-free, this was not the experience of the USACE pilot program. This sustained protest not only caused unnecessary re-procurement costs – it also created distrust and a severe distaste for reverse auctions with

several key USACE customers. With regards to the details of this specific protest, when reading Appendix Q and other comments in the contractor's report, it is important note that this was a full-service [assisted] reverse auction and due to the inexperience of USACE with reverse auctions – USACE personnel did rely heavily upon the advice from the contractor in making the initial government decisions that lead to this sustained protest.

So while the government and the government alone must take responsibility for the initial decisions that lead to this sustained protest, the quality of advice from adjunct contractor staff must be taken into account – especially since the government was paying for the expertise of the contractor who was the subject matter expert.

G) Conclusion #1: When all of the issues and factors above are taken into consideration along with the experience that USACE gained from this pilot program, a well supported determination is that reverse auctioning is fairly frictionless and usually compatible with all of the USACE mission factors – **if /when such reverse auction services are for the acquisition commodities or manufactured goods that inherently possess a controlled and consistent nature and their variability is nil.**

H) Conclusion #2: When all of the issues and factors above are taken into consideration along with the experience that USACE gained from this pilot program, a well supported determination is that **reverse auctioning is not frictionless and not compatible with the complex USACE mission factors for Construction Services** – where such services are for one-of-a-kind projects executed under one-of-a-kind conditions regarding salient, **variability** in both cost and non-cost factors.

Was there a quantitative or qualitative difference in the use of standard 'desktop' reverse auctions versus the use of full-service (assisted) reverse auctions?

Yes, there was a significant difference in favor of the 'desktop' version of reverse auctions in many aspects over the use of 'full-service' [assisted] reverse auctions.

'Desktop' reverse auctions (called 'Quick Source' by the contractor) are performed directly from the office-PC of the contracting officer – without any assistance or advice from the contractor. This is the most simple, technical approach to reverse auctions.

Full-Service [assisted] reverse auctions (called 'Full Source' by the contractor) are performed with direct assistance and advice from the contractor's staff to the contracting officer – using the contractor's facilities for the actual reverse auction bidding operation.

The issues behind this answer have already been covered implicitly if not explicitly in Section 4, Report Issue #1. The driving factor behind this answer is that the 'desktop' version of reverse auctions was used exclusively for commodity type procurements. Based upon previous historical databases and public posted pricing, the actual savings determined by the 'desktop' version of reverse auctions can in fact be documented.

The major difference – if not the only significant difference – between the 'desktop' version versus the 'full-service' [assisted] version of reverse auctions is that after initial training, the contracting officers and the contract administrators conducted the 'desktop' version of reverse auctions on their own office computer without any on-site assistance from the contractor. However, with the 'full-service' [assisted] version of reverse auctions, the contractor's staff was in fact contracted as adjunct staff to 'assist' the contracting officers and the contract administrators in the development and execution of the relevant reverse auctions. This is primarily why the 'full-service' [assisted] version of reverse auctions is a much more expensive process to engage.

Without doubt, this initial assistance provided by the contractor through the terms of the 'full-service' [assisted] version of reverse auctions was invaluable to contracting officers and contract administrators in their 'learning curve' regarding reverse auctions. However, in the final analysis, there is no significant qualitative difference in the actual bidding activities of a reverse auction between the 'desktop' versions of reverse auctions versus the 'full-service' [assisted] reverse auctions. After the solicitations are made, and all the relevant coordination has been made to set up and accommodate the reverse auction – the bidding activity is

relatively the same between the 'desktop' versions of reverse auctions versus the 'full-service' [assisted] reverse auctions.

Essentially, with the 'full-service' [assisted] version of reverse auctions, you are paying more for assistance with the learning curve on how to conduct reverse auctions than the actual function of the reverse auction itself. Without doubt, this type of expert assistance from the 'full-service' [assisted] version of reverse auctions can be quite invaluable in developing a learning curve to conduct reverse auctions. However, the continued expenditure of government dollars for the use of this kind of contractual service is really not necessary once the organization has established a learning curve for the use of reverse auctions.

Should reverse auctioning be kept on as part of the professional ‘acquisition tool box’ for the complex and diverse USACE engineering-acquisition mission?

YES.

A) Strictly from a professional acquisition standpoint, USACA should have every available tool in its ‘acquisition toolbox’ – to include the relevant expertise to use such acquisition tools. USACE can never foresee the future for the customer’s desires nor the circumstances that may unfold for any acquisition.

Additionally, from the demonstrated evidence in commodity procurements, reverse auctioning should be promoted as a strategic acquisition tool for commodities. It should also be promoted as a periodic reality check on the general market price of commodities and other non-complex manufactured goods (but certainly not complex sub-systems).

B) However, with respect to Construction Services for one-of-a-kind projects under one-of-a-kind conditions, reverse auctioning SHOULD NOT be exercised as a standard operating acquisition process. From the experience of this pilot program, reverse auctions for construction services should be the very rare exception and not the rule – if used at all. Additionally, corporate level approval should be obtained.

This report does not rule out the possibility of using reverse auctioning for USACE construction service with particular and appropriate circumstances. Clearly, to do so would create a negatively oriented, restrictive acquisition policy that detracts from the freedom of authority and the judgment of the contracting officer. The contracting officer and program manager should always be given wide latitude to determine the best acquisition strategy, plan, process, and type of contract to use for a specific set of circumstances and associated nuances with a particular acquisition. Additionally, there may come a time when customer resistance to reverse auctions may abate, and a particular USACE customer may in fact prefer to utilize a reverse auction under appropriate circumstances.

C) Moreover, the operational dynamics in this matter are quite clear:

- 1) Construction Services cannot and should not be equated to commodity / manufactured products.
- 2) Commodity / manufactured products are produced as identical products under highly controlled and identical conditions.
- 3) Conversely, construction services are laden with too many inconsistent variables that cannot be given adequate consideration during the rapid bidding activity of the reverse auction process.

Section 8, Report Issue #5

- 6) The USACE pilot program did not demonstrate any significant or even a marginal difference in savings between the reverse auctions method versus the sealed bid method.
- 7) The USACE pilot program did not reveal any consistent, nor reliable measurement method to determine savings for construction services through the use of reverse auctioning. (In fact, losses could be projected.)
- 8) Where multiple rounds of bidding are deemed appropriate for a specific Construction Service, there are already existing, proven regulatory contracting methods that provide the contractor with far more time to consider the numerous variables involved when it is necessary to provide the opportunity for multiple bids on construction services.

USACE should promote the use of the existing, free, Army version of reverse auctioning through CECOM of AMC – for appropriate commodity acquisitions.

Section 9,
Determinations

The results of this USACE Pilot Program on reverse auctions revealed that:

- 1) The acquisition methodology referred to as 'reverse auctioning' is a strategic acquisition tool that should be kept in the USACE professional acquisition toolbox at all times.
 - a. This issue has been adequately explained throughout the various sections of this report.

- 2) For a variety of significant dynamic reasons, the acquisition of construction services cannot and should not be equated with commodities (to include basic raw materials, manufactured goods, or spare parts).
 - a. Within the operational parameters of DOD contracting regulations, the dynamics are much too diverse between these two separate categories.
 - b. Virtually all of the USACE constructions services provided within USACE are one-of-a-kind projects under one-of-a-kind conditions with numerous inconsistent variables for cost and non-cost factors.
 - c. Additionally, the Office of Federal Procurement Policy (OFPP) has recently supported this very significant fact.
 - d. In a July 2003 memorandum, OFPP Executive Administrator Angela Styles recognized and agreed that construction services cannot be equated to commodities or manufactured goods when she acknowledged "new construction projects and complex alteration and repairs...involve a high degree of variability."
 - e. This issue has been adequately explained throughout this report with specific emphasis in Sections 4, 6, and 8.

- 3) However, there is apparently significant potential is using reverse auctions for commodities, manufactured goods and/or very simple services where the critical issue of variability is exceedingly small or nil.
 - a. Within this pilot program there was clear proof that reverse auctioning could 'at times' provide significant savings over the sealed bid process for commodities.
 - b. However, because of market dynamics, it is highly doubtful that continuous, consecutive use of reverse auctions will consistently produce significant or even marginal savings over the sealed bid process for the acquisition of identical commodities.
 - c. This issue has been adequately explained throughout this report with specific emphasis in Sections 4, 5, 6, and 7.

- 4) Within this pilot program there was no proof that reverse auctioning provided any significant or even marginal edge in savings over the sealed bid process for construction service projects.

Section 9,
Determinations

- a. In fact, within this pilot program there was NO proof that a consistent, reliable and valid measurement method for projecting savings could be established from reverse auctioning.
 - b. Additionally, in the absence of specific price history for an identical project under identical conditions – there is NO practical way to measure or compare any projected savings by reverse auctions over sealed bidding
 - c. Moreover, within this pilot program there was no proof that reverse auctioning provided any significant or marginal savings in comparison to the Government Estimate.
 - d. This issue has been adequately explained throughout this report with specific emphasis in Sections 4, 5, and 8.
- 5) Conceivably on a rare occasion under very specific unusual circumstances, reverse auctioning *may* be considered as an alternative methodology for construction services, but normally only after sealed bidding has failed.
- a. A customer or contracting officer may believe that specific circumstances support the use of reverse auctions for price-oriented construction services.
 - b. Or on a rare occasion when all sealed bids have significant exceeded the available budget; cancellation of the solicitation may be in order.
 - i. On such rare occasions, the customer and/or contracting officer may desire to re-solicit the action under alternative methods, which may or may not include reverse auctioning.
 - ii. If/when a reverse auction is used under such circumstances, the public message to the contractors is quite clear – price alone has become the overriding award factor.
 - iii. As evidenced from this pilot program, in relation to the Government Estimate/Budget, such secondary circumstances still do not guarantee any additional savings by reverse auctioning.
 - iv. However, the possibility of using reverse auctioning strategically only after sealed bidding has failed the budget should not be ignored as an experimental option on such rare occasions.
 - v. Because of the public implications and the operational dynamics, the secondary use of reverse auctioning under such circumstances cannot be equated to the use of reverse auctioning as the primary methods to obtain bids.
 - c. However, such rare circumstances still do not rule out the preference for using other standard regulatory methods for obtaining multiple

Section 9,
Determinations

rounds of sealed bids (e.g. Requests for Proposals with Best and Final Offer procedures - BAFOs) instead of reverse auctions.

- 6) There was no demonstrated quantitative or qualitative difference in the use of the use of full-service (assisted) reverse auctions over standard 'desktop' reverse auctions.
 - a. However, the reverse was true in that there was a demonstrated quantitative and qualitative difference in the use of standard 'desktop' reverse auctions versus the use of full-service (assisted) reverse auctions.
 - b. This quantitative and qualitative difference for standard 'desktop' reverse auctions can be attributed to two specific factors:
 - i. Standard 'desktop' reverse auctions were primarily used for commodity procurements where there was documented price history to validate savings.
 - ii. Once the learning curve has been established on how to prepare and conduct reverse auctioning, the actual bidding activity between 'desktop' versus full-service' reverse auctions is virtually identical.
 - iii. Hence, there is no perceived value in paying for expensive 'full-service' reverse auctioning when 'desktop' will do.
 - c. This issue has been adequately explained throughout this report with in various areas of Sections 4, 5, 6, 7 and 8.

- 7) The reverse auction process is not a protest-free methodology for initiating or obtaining a firm fixed price contract.
 - a. During this pilot program a significant protest was lodged as sustained by a contractor.
 - b. This caused significant and unnecessary re-procurement costs.
 - c. This also caused significant customer dissatisfaction and distrust with the reverse auctioning method – and that dissatisfaction was passed along to other customers.
 - d. Although the government must accept the responsibility for this protest and re-procurement costs, this action was a 'full-service' reverse auction where the contracting officer (while still establishing a learning curve) was relying upon crucial advice from the contractor's expertise.
 - e. There was also some question as to whether or not the contractor's software had not been programmed to prevent such mishaps and protests.
 - f. This issue has been adequately explained throughout this report in various areas of Section 6.

Section 9,
Determinations

- 8) There was significant resistance to the use of reverse auctions by a variety of key USACE customers.
 - a. Several USACE customers initially entertained the idea of reverse auctioning in all earnest.
 - b. However, after time for careful consideration, these customers adamantly refused to allow USACE to use the reverse auction methodology to procure their construction services.
 - c. Early on, many of these customers came to believe that Construction Services cannot be equated with commodity goods – and the various sealed bidding procurement processes were best for the acquisition Construction Services.

- 9) For a variety of significant reasons, there was also great reluctance within other DOD agencies to sample reverse auctioning.
 - a. Under the terms of this contract, the contractor also provided other major DOD procurement agencies with highly professional Executive Briefings and encouraged them to use reverse auctioning.
 - b. USACE also offered these other DOD procurement agencies free reverse auction services under this USACE pilot program.
 - c. However, all such free offers were declined by these agencies.

- 10) At this time, the best form of the reverse auctioning tool that USACE should keep in its professional acquisition toolbox is the free government software version of desktop reverse auctions offered by CECOM of AMC.
 - a. There is clearly no evidence whatsoever that the expensive version of ‘full-service’ [assisted] reverse auctions will provide any significant or marginal benefits over the standard ‘desktop’ reverse auction services.
 - b. It is simply not necessary to pay for an expensive standard ‘desktop’ reverse auction services when there is an Army procurement agency that can provide this service free (or even through a very nominal Intra-Service or Inter-Service Support Agreement).
 - c. This issue has been adequately explained throughout this report various areas of this report.

FreeMarkets' Final Report On U.S. Army Corps of Engineers E-Sourcing Program

March 19, 2004



 **FreeMarkets.**
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**US Army Corps of Engineers
E-Sourcing Program
Final Report**

March 19, 2004

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USACE Confidential

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EXECUTIVE SUMMARY

FreeMarkets conducted a pilot program to evaluate the use of e-sourcing (reverse auctioning) for the US Army Corps of Engineers (USACE) from October 2002 until December 2003. The overall objective of the program was to provide USACE with a full understanding of the benefits of e-sourcing which would then allow USACE to best strategically apply e-sourcing techniques and tools in the future. FreeMarkets worked with USACE to develop a program that combined advanced technology, training and expert services. The program consisted of four basic elements: e-sourcing training, executive briefings, use of e-sourcing technology and expert assistance with e-sourcing projects.

The results of the program demonstrated the significant potential of e-sourcing as well as the inherent challenges of e-sourcing in government contracting. The nine competitive bid events were shown to drive tremendous competition and deliver high value to USACE and its customers. However, change management issues were significant to gain both internal and contractor acceptance of new processes and techniques. Recommendations to fully implement an e-sourcing program within USACE are presented including the need for strong USACE sponsorship, improved processes to deliver on e-sourcing opportunities, more focused training that targets e-sourcing challenges and optimal use of e-sourcing tools.

E-SOURCING PROGRAM SCOPE OF WORK

In response to Contract GS-35F-0342K, FreeMarkets was tasked with conducting a pilot program to promote and test e-sourcing for the US Army Corps of Engineers (USACE). In general, e-sourcing is defined as the combined use of technology, services, and information to manage tactical and strategic sourcing activity. For the USACE program, e-sourcing was defined more specifically as “reverse auctioning,” which is a subset of activities in e-sourcing. The goals of the program were:

- Evaluate the value of e-sourcing in USACE contracting
- Educate and train USACE contracting personnel in e-sourcing
- Develop and incorporate modern sourcing best practices within USACE
- Help USACE provide customers with quality, cost-effective facilities through competitive online e-sourcing projects

This program was designed to be in alignment with USACE strategic sourcing vision of:

- Transparency – e-sourcing improves visibility into the marketplace and results in true market pricing
- Effectiveness – the e-sourcing process provides a fair and unbiased environment to conduct discussions / negotiations and determine the best value for each offer
- Efficiency – true market pricing is typically achieved within a one hour time period

FreeMarkets worked with USACE to develop a program that combined best-in-class technology with education, training and expert services. The program deliverables were broken down into the following basic elements:

- E-sourcing training of all USACE pilot sites
- Opportunity assessments to identify e-sourcing projects
- Executive briefings to introduce and report on the program
- Implementation of e-sourcing technology across pilot sites
- Full-time program management
- Limited number of fully managed e-sourcing projects

These elements and the program design are more fully described in the Program Management Plan for the E-Sourcing Pilot Program Initiative that was prepared for USACE in March 2003. See Appendix A for the complete plan.

Nine USACE pilot sites were selected to be part of the program:

- a) Great Lakes & Ohio River Division
- b) Engineering & Support Center
- c) Mississippi Valley Division
- d) North Atlantic Division
- e) Northwestern Division
- f) South Pacific Division
- g) South Atlantic Division
- h) Southwestern Division
- i) Defense Microelectronics Activity

Each site had a USACE contact lead, listed in the Appendix B. QS users by division and district are listed in Appendix C.

Contracting personnel from each participating site were to be trained, have access to technology and have the opportunity to participate in fully managed e-sourcing projects. The USACE personnel who received training as part of this program are listed in Appendix D. FreeMarkets conducted the training, provided the e-sourcing technology, and managed the program activities using a combination of a full-time Program Manager and internal FreeMarkets support services. Responsibilities of the Program Manager are detailed in Appendix E.

The fully managed e-sourcing projects were to be identified for each selected USACE site through project opportunity assessments assisted by FreeMarkets. Over 300 advertised projects across the USACE were reviewed for alignment with USACE e-sourcing strategy. Forty one potential opportunities were selected for final review by USACE contracting personnel. The following Districts received an Opportunity Assessment: Alaska, Baltimore, Ft. Worth, Huntsville, Kansas City, Louisville, Omaha and Savannah. See Appendix F for the Opportunity Assessments.

As directed, FreeMarkets provided program briefings per request by USACE. These varied from early introduction to the program, to updates at contracting conferences, to discussions with

USACE customers. A partial list of the Program Briefings is located in Appendix G. FreeMarkets also distributed an Enterprise Sourcing Guide, QuickSource (QS) and FullSource (FS) user guides to USACE participants. See appendices H, I, and J for the aforementioned guides, respectively.

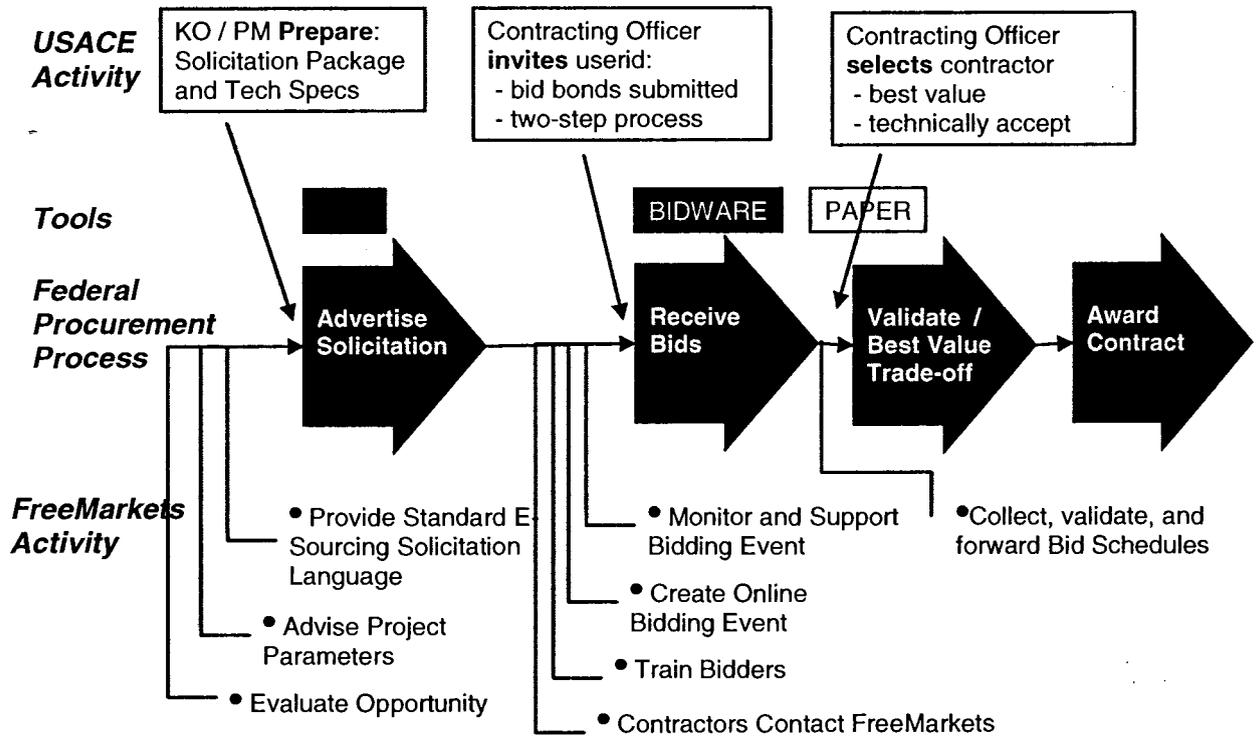
E-SOURCING PROCESS AND REGULATION FOR USACE

In order for e-sourcing processes and tools to be used by USACE contracting personnel, it was understood that the activities must be covered by FAR regulations. FreeMarkets worked together with the USACE leadership to ensure activities had FAR compliance. This was in alignment with past Federal Government e-sourcing activity that is covered by the following FAR regulations:

- FAR Part 8 Government Supplies
- FAR Part 12 Commercial
- FAR Part 13 Simplified Acquisition
- FAR Part 14 Sealed Bids
- FAR Part 15

FreeMarkets also drafted solicitation language explaining the e-sourcing process, called adders, which could be included in e-sourcing bid packages. The FullSource and QuickSource adders are provided in Appendix K and Appendix L, respectively.

Lastly, FreeMarkets provided training to ensure that USACE contracting understood the FAR compliance and integration of e-sourcing activity with their standard processes. A high level overview of the E-Sourcing process alignment with USACE contracting is provided below:



E-SOURCING PROGRAM RESULTS

The initial program activities concentrated on introducing e-sourcing throughout USACE and understanding the people, processes, and challenges to implement an e-sourcing program. Numerous training sessions and executive briefings were the bulk of this activity. These ranged from classroom e-sourcing training to hands-on technology training to presentations at USACE conferences. A listing of the training activities and agendas are provided in Appendix M and N.

The next phase of the program was designed to identify and conduct multiple e-sourcing projects. Ideally, these were to be conducted across as many sites and types of projects as possible. Of the 41 opportunities identified for e-sourcing, a total of nine e-sourcing projects were conducted. A high level description and summary of the results are provided below:

District	Strat	Title	Location	Govt. Value	Initial Low Bid	Final Low Bid	Savings (Initial Low)	%
Louisville	IFB	ADD/ALT Parking Apron/Taxiway	Fort Dix, NJ	\$9,511,661	\$9,700,000	\$8,700,000	(\$1,000,000)	10.3
Louisville	IFB	AccessControl Point and Cantonment Fencing	Fort Knox, KY	\$4,893,59	\$5,200,000	\$4,683,901	(\$516,099)	9.9
Fort Worth	Comm	Janitorial Service	Multiple	\$2,281,059	\$2,281,059	\$1,029,250	(\$1,251,809)	54.9
Norfolk	IFB	Medical Logistics Warehouse	Langley AFB	\$2,066,059	\$2,900,000	\$2,422,000	(\$478,000)	16.5
Omaha	IFB	Minneapolis Lodging Facility	Minneapolis, MN	\$3,875,100	\$4,300,000	\$4,072,856	(\$227,144)	5.3
Philadelphia	BV	Dredge Replacement	no estimate					
Savannah		Liquid Nitrogen	Elberton, GA	\$522,000		\$428,240	(\$93,760)	17.97
Huntsville		Furniture	Germany	\$171,542	\$171,216	\$223,084	(\$51,542)	30.0
Great Lakes & Ohio River Valley Division		IDIQ-C-RFP-03-0015	Pittsburgh, PA	\$356,738		\$285,000	\$71,738	20.0

Select column headings above are defined below:

Govt. Value – budget amount

Initial Low Bid – lowest initial offline quote submitted by contractors prior to online negotiation

Final Low Bid - final quote following online negotiation represents the true market value for the business based on contractor participation

Savings – the difference between Govt Value and Final Low Bid.

More detailed information on each of the above projects is presented in Appendix O.

In general, the results show the value provided by the use of e-sourcing in the USACE contracting process, including:

- Establish market pricing
- Stretch budget – allowing buyers to do more with the same dollar
- Competitive bidding - establish transparency to sourcing
- Discipline and fairness of process
- Process efficiency

E-SOURCING CHALLENGES

Although results of the e-sourcing projects were very positive, several challenges arose that should be addressed in order to increase success of future e-sourcing initiatives. These challenges were often inter-related and include sponsorship, change management, program communication, understanding e-sourcing value, setting priorities and contractor resistance. The major impact of these challenges was a decreased usage of e-sourcing techniques as well as

cancellation of identified projects. Six e-sourcing projects that had been initiated were cancelled during the program. See Appendix P for details regarding the cancelled bids.

Because of the highly regulated environment, USACE contracting personnel were very concerned about any change to existing processes. USACE personnel were consistently looking for stronger e-sourcing policy guidance and direction from USACE leadership. There also appeared to be limited sponsorship in the field to propel the program forward and institute new policies. This was further evidenced by frequent statements regarding the "pilot" nature of the e-sourcing program and a general impression that e-sourcing was not a mandated policy. Future e-sourcing activities should adopt better communication techniques and sponsorship guidance to more quickly overcome the inherent resistance to change.

In a related issue, the internal USACE project approval process proved to be a challenge. The approval process was adopted to make sure that high level projects had USACE headquarters oversight and strategy approval. Although the approval process was a supportive policy in theory, it often resulted in significant timeline issues due to the considerable time (often weeks) that it would take to gain approval. Of the six e-sourcing projects cancelled, four were cancelled due to a timeline delays resulting from the length of time to approve projects.

Another issue was a lack of understanding or acceptance of the value in generating market pricing using e-sourcing. It was theorized that this was a combination of many factors including historical practice, lack of training, and budgeting based on percentage of contract value. Generally, USACE personnel viewed market "savings" negatively and believed that there would be downstream project impact of any upfront price competitiveness. Budgets were thought to be negatively impacted by lower contract values. The primary price determination goal appeared to be meeting boundaries within the government estimates, rather than true market pricing.

Contractor resistance provided another challenge to overcome. It was felt that there was an influence over USACE contracting personnel & project managers, including industry association apprehension, which may be due to resistance to transparency. There was also sub-tier contractor pressure and concern.

Two auctions had legal protests from suppliers participating in the online bid. In Competitive Bidding Event (CBE) 9799, Atlantic Marine Construction Company filed a Letter of Protest to the

USACE against FreeMarkets for the construction of the Medical Logistics Warehouse in Norfolk Virginia. Atlantic Marine claimed that the online bidding process was illegal and requested that the online be null and void. During the investigation phase USACE asked FreeMarkets to provide details on Atlantic Marine and our process. FreeMarkets was able to provide USACE information concerning our correspondence with Atlantic Marine. With the information that FreeMarkets provided to USACE in regards to this claim, the USACE rejected the Letter of Protest.

The second protest against the bidding process was for CBE 9473. Meisinger Construction Company, Inc. brought an action against USACE for the construction of the Consolidated Loding Facility at the Minneapolis/St. Paul International Air Force Reserve Station. The legal action stated that during the bid Meisinger attempted to submit an unqualified bid into the market with 7 seconds to go in the bidding phase. This bid was rejected by the software and the bid went into "Pending" status. During the pending period bidders are instructed to contact FreeMarkets if they had any technical issues which prevented them from submitting a bid into the market. Meisinger called FreeMarkets during the pending period to explain that they could not submit their final bid and asked FreeMarkets to open the market again for bidding. FreeMarkets informed Meisinger that it was the USACE's decision to re-open the market for bidding and that we would call them. FreeMarkets contacted the USACE to explain the facts and asked for their recommendation to open or close the bid. The USACE decided to close the market. FreeMarkets then informed Meisinger of the USACE decision and officially closed the bid. Meisinger filed a case against FreeMarkets and the results can be found in Appendix Q for court judgment.

RECOMMENDATIONS

Based on the success of the pilot program, it is recommended that USACE implement a full-time e-sourcing program. This program should build upon the lessons learned from the pilot program and fully address the challenges. Among the lessons learned were that executive direction is critical to drive adoption. Awareness should be raised on the value of competitive bidding and market price determination. It is important to align the organization and to include contracting goals to include cost focus. Education is key to a strong project team and customer commitment. Ensure that robust training and communication plans are in place. E-sourcing process must be considered as a standard process. Develop detailed processes and procedures that incorporate e-sourcing. Strong early commitment by USACE is needed to get bidding contractors aligned at the start of the process. The fairness and integrity of the e-sourcing process must be stressed

and connect to the overarching goals of transparency, effectiveness and efficiency. It is believed that a combination of education, sponsorship, and a continued application of e-sourcing tools and services can deliver tremendous value for USACE going forward.

It is believed that the key to getting the most value for any future program will be the consistent sponsorship and direction by USACE leadership. Many activities in the pilot program experienced either delays or high internal resistance due to a lack of consistent communication and support of e-sourcing. Success will require USACE to be committed to achieving e-sourcing excellence and implementing changes to capture the benefits fully. Strong leadership will also be needed to overcome the resistance by contractors to e-sourcing and new processes.

To achieve this high-level of sponsorship, it is believed that USACE will need to dedicate someone full-time to implementing an e-sourcing program. Furthermore, in each division, a representative should be designated and trained as an e-sourcing division leader to help drive the program at the divisional level. The program and divisional leaders should form an e-sourcing steering committee that continuously evaluates and delivers on the needs of the program. Next as the program gets underway, much more consistent and stronger communication should be provided to highlight the goals, objectives, and successes of e-sourcing results. Guidance and assistance should also be provided to identify projects. This includes a more robust review process of opportunities, including an interface with the USACE solicitations web site, and outward education of USACE customers and bidding contractors on the value and commitment of USACE to the e-sourcing process. When a project does get identified and if it requires approval, the approval process should be streamlined to avoid delays and loss of opportunities. Strict guidelines should be in place to drive compliance. Finally, success should be rewarded for the effective use of e-sourcing tools and reducing costs. This will drive better usage of e-sourcing across USACE and generate positive change attitudes.

From a training aspect, the program should implement training that targets the challenges faced in the pilot program. Initially, any new training should consider change management issues and focus on overcoming the resistance to new tools and processes. Training should then contain an upfront development of the e-sourcing sponsors at each division. These divisional leaders should then help drive the local training and development of the division. Training should be conducted on a hands-on basis in the field with projects designated and managed to utilize e-sourcing.

From an E-Sourcing tools and support service perspective, the elements used in the pilot program were shown to be effective and continued use is recommended. These elements include fully assisted e-sourcing (reverse auction) projects, professional training, as well as self-service technology. The optimal set of tools and support should be periodically evaluated by the e-sourcing steering committee proposed earlier so that the needs of USACE are well understood and constantly met.

In summary, it is recommended that USACE fully establish an e-sourcing program that contains the following elements:

- Robust sponsorship at the executive level to develop specific goals for divisions / pilot sites
 - Full-time USACE program sponsor
 - Designated e-sourcing leaders for each division
 - E-sourcing steering committee
 - Professional communication plan & results tracking
 - Process and guidelines to identify reverse auction candidates
 - Fast-track approval process for reverse auctions
 - Recognition system for successful use of e-sourcing
 - Follow up and feedback process

- Focused E-Sourcing Training
 - Change management
 - Divisional e-sourcing experts
 - In-the-field application and process training

- Professional E-Sourcing Tools & Services
 - Continued use of e-sourcing (reverse auction) tools
 - Expert assistance to identify and guide projects
 - Professional resources to train USACE personnel



ASSOCIATED GENERAL CONTRACTORS OF AMERICA WHITE PAPER ON REVERSE AUCTIONS FOR PROCUREMENT OF CONSTRUCTION

I. INTRODUCTION

The Associated General Contractors of America (AGC) strongly supports full and open competition for the many contracts necessary to construct improvements to real property. This includes competition among general contractors, specialty contractors, suppliers and service providers. Over the years, it has been established that such competition energizes and improves the construction industry to the benefit of the industry and the nation as a whole. Today, e-commerce, through the internet and other means, may offer the promise of increasing competition for construction contractors, enabling owners to reach a wider group of potential bidders and to improve the “speed to market” of projects. In fact, many owners are already using the Internet to solicit and receive bids for construction contracts. AGC supports and encourages the use of e-commerce to enhance productivity in the construction industry, including the process of electronic bidding.¹

AGC has found that public and private property owners maximize their results when they require or encourage competition on all of the relevant “fronts,” including but not limited to price, schedule, safety, quality, responsiveness, and past performance. Owners have developed several ways of structuring the competition for construction contracts, enabling them to emphasize the factors they consider most important and, at the same time, requiring or at least encouraging competition on other fronts. When owners consider price and price-related factors to be most important, and have little need to meet with the competitors for the contract, they generally procure the contract through sealed bids, a time-tested method that ensures the integrity of the procurement process. When owners consider non-price factors to be important, or wish to discuss the work with the competitors, they are most likely to engage in some form of negotiation, using an alternative contractor selection process and project delivery system.

Whatever their priorities, owners prefer well thought-out pricing based on the human, financial and material resources necessary to perform the work. They want responsive and responsible contractors to bid for their work. When owners contemplate more than one round of bidding, they typically give bidders adequate time to assess their strategies and to recalculate costs, understanding that this leads to accurate and well-constituted bids that are material to the owners’ articulated requirements. Knowledgeable owners, regardless of the procurement method selected, value healthy and vibrant relationships with their construction contractors, recognizing that each project entails unique variables that require consistent, sustained communication and the willingness of both parties to address and work through project difficulties and issues.

Because owners are considering the use of reverse auctions for the procurement of construction, which treat construction as a commodity, AGC offers the following points for consideration:

II. AGC BELIEVES THAT REVERSE AUCTIONS WILL SELDOM PROVIDE BENEFITS COMPARABLE TO CURRENTLY RECOGNIZED SELECTION PROCEDURES FOR CONSTRUCTION CONTRACTORS.

Among some of the distinguishing features of a reverse auction are that the process may require competitors to disclose their prices to each other, it contemplates multiple rounds of bidding, it is quick, and it expects and even encourages competitors to focus on each other’s bids, submitting new and ever lower bids in an effort to win the competition. While competitors may lower their prices, they normally have only minutes to do so.

¹ (AGC Policy on Electronic Bidding in the Public Sector, 1-12-01)

Software vendors and internet service providers who host reverse auctions typically have designed their processes for the procurement of commodities and other manufactured goods. These vendors promote reverse auctions to companies on the grounds that such processes will dramatically reduce the cost of procuring commodities. Whether electronic reverse auctions have reduced the cost of procuring commodities and manufactured goods is a matter of some debate². Business commentators also point out that these vendors are not telling the complete story about other costs associated with reverse auctions that may negate any savings realized from the auction process itself. "For many companies, the promise of lower unit costs is just an illusion because expenses in other budget categories (i.e. indirect losses) may actually increase. The costs of goods sold will thus be maintained or may even increase."³ These same vendors now suggest that reverse auctions are a superior way to procure construction. Such a suggestion, however, misapplies a procurement process originally designed for commodities. It ignores the unique nature of construction. Construction contractors, specialty contractors, subcontractors and suppliers offer and provide a mix of services, materials and systems. They do not "manufacture" buildings, highways, or other facilities. In fact, the construction process is fundamentally different from the manufacturing process. Manufactured goods are subject to little or no variability or change in manufacture or application. Construction projects, on the other hand, are inherently variable. Each is subject to the unique demands of the project, such as the needs, requirements, personnel and budgetary criteria of the owner, site conditions, design features and parameters, and the composition of the project team. Federal procurement laws recognize that construction stands apart from commodities or manufactured goods. In fact, this distinction was reiterated in a July 2003 memorandum from Office of Federal Procurement Policy Administrator Angela Styles, which states: that "[n]ew construction projects and complex alteration and repair, in particular, involve a high degree of variability, including innumerable combinations of site requirements, weather and physical conditions, labor availability, and schedules." This memorandum was sent to all federal procurement executives, advising them not to treat construction as a commodity for government procurement purposes.

Vendors promoting reverse auctions have yet to present persuasive evidence that reverse auctions will generate savings in the procurement of construction or will provide benefits of "best value" comparable to currently recognized selection procedures for construction contractors, which have been carefully and specifically tailored for all types of construction.

A. REVERSE AUCTIONS DO NOT GUARANTEE LOWEST PRICE.

Vendors claim that reverse auctions significantly reduce the cost of construction and save substantial amounts of time. In the context of construction, AGC believes that most of these claims are unproven and that reverse auction processes may not lower the ultimate cost of construction. For example, "winning" bids may simply be an established increment below the second lowest bid not the lowest responsible and responsive price. Moreover, in reverse auctions, each bidder recognizes that he or she will have the option to provide successive bids as the auction progresses. As a result, a bidder has little incentive to offer its best price and subsequently may never offer its lowest price. In addition, savings from reverse auctions can be one time occurrences. Some reports show savings realized by an owner in the first reverse auction are significantly reduced in subsequent reverse auction events.⁴

On the other hand, sealed bidding ensures that competitors have only one opportunity to price the work, encouraging each bidder to present his or her best price. For this reason, AGC believes that sealed bidding, which encourages intense price competition, will continue to serve the owner better than reverse auctioning when the owner wants to emphasize price alone.

² See Emiliani, M.L. and Stec, D.J., "Aerospace Parts Suppliers' Reaction to Online Reverse Auctions," available at http://www.theclbm.com/aero_ora.pdf, accessed June 20, 2003.

³ Emiliani, M.L. and Stec, D.J. of RPI's Center for Lean Business Management in Hartford, Conn.

⁴ International Housewares Association Reverse Auction Task Force, "Reverse Auctions: An Industry White Paper", October, 2002

B. REVERSE AUCTIONS MAY ENCOURAGE IMPRUDENT BIDDING.

Reverse auctions create an environment in which bid discipline is critical yet difficult to maintain. The competitors have to deal with multiple rounds of bidding, all in quick succession. The process may move too quickly for competitors to accurately reassess either their costs or the way they would actually do the work. If competitors act rashly and bid imprudently, the results may be detrimental to everyone, including the owner. There are even reported cases in which buyers actually step in to keep an overzealous supplier from obtaining an order that would potentially jeopardized the business viability of the supplier. “[John] Deere saw that a known supplier was bidding down to its own costs of goods in a reverse auction, “We knew ourselves they were below the point where they should have kept going...so we immediately dispatched a couple of supplier-development engineers. Because of the relationship we had, we kept that business and paid a little more than we would have paid to the bidder next to their lowest. But this was a good supplier. It’s still a good supplier”.⁵ Absent such steps, imprudent bidding may lead to performance and financial problems for owners and successful bidders, which may have the effect of increasing the ultimate cost of construction as well as the cost of operating and maintaining the structure.

C. NEGOTIATED PROCUREMENTS ALLOW THOROUGH EVALUATION OF VALUE.

Where price is not the sole determinant, owners increasingly have utilized processes focused on negotiation to expand communication between the owner and prospective contractors for the purpose of discussing selection criteria such as costs, past performance and unique needs. These processes recognize the value and quality of project relationships and other factors that promote greater collaboration among the owner and project team members. These processes also consider quality, system performance, time to complete and overall value that can, in fact, outweigh the lowest price to arrive at the best value for the owner. Such an approach offers both the owner and contractor the opportunity to discuss, to clarify and to better understand each party’s needs for the performance of the project. On the other hand, reverse auctions do not promote communication between the parties. Rather, they promote a dynamic in which parties repeatedly attempt to best each other’s prices. In fact, current studies of reverse auctions between buyers and suppliers have found that reverse auctions often have a deleterious effect on the relationship between buyer and seller. “Even more dangerous is the deterioration of buyer and supplier relationships when reverse auction are used to beat up suppliers on price.”⁶ Moreover, non-price factors that are of consequence to the owner, such as quality of relationship, past performance, and unique needs, are deemphasized in the auction. As a result, reverse auctions do not offer owners a good way to evaluate non-price factors.

D. SEALED BIDDING ASSURES THAT THE SUCCESSFUL BIDDER IS RESPONSIVE AND RESPONSIBLE.

Where price is the sole determinant, the sealed bid procurement process was established to ensure integrity in the award of construction contracts. Each bid is evaluated through the use of objective criteria that measure responsiveness of the bid to the owner’s articulated requirements and the responsibility of the bidder. In this manner, sealed bidding ensures fairness and value for the owner. On the other hand, reverse auctions ignore this tradition. The pressure and pace of the auction environment removes any assurance that initial and subsequent bids are responsive and material to the owner’s articulated requirements. These auctions expose owners to the real possibility that they may award contracts to what would otherwise be non-responsive bidders. In addition, reverse auctions ignore the protections of the sealed bid procurement’s laws, regulations and years of precedent that address these critical factors and ensure the integrity of the process. The National Electronic Coordinating Council, an alliance of state government associations dedicated to the advancement of electronic commerce within the states, expressed these

⁵ Erison, Jim, “Reverse Auctions: Bad Idea”, Line 56, Thursday, September 20, 2001.

⁶ Sawhney, Mohianbir, “Forward Thinking about Reverse Auctions”, CIO Magazine June 1, 2003; see also Schoenherr, Tobias, “Deciding on the Appropriateness of B2B Reverse Auction Technology Adoption: An AHP Approach Combined with Integer Programming.”

concerns in a December 2000 report on E Procurement Policy Issues, "Anonymity of bidders helps prevent collusion between bidders while sealed bids prevent fraud and favoritism being exercised by bid officials. There is some question as to whether a dynamic, real-time bidding environment prevents these problems."

E. REVERSE AUCTIONS MAY CONTRAVENE FEDERAL PROCUREMENT LAWS AND CERTAIN STATE LAWS.

Federal procurement laws do not specifically address the use of reverse bid auctions to procure construction. The Federal Acquisition Regulation (FAR) and current procurement statutes, however, do reflect a clear policy of not disclosing contractor price information. Price disclosure is often a distinguishing feature of reverse auction processes. Given the restrictions on contractor price disclosure in the U.S. Code and the FAR, it is unclear that any authority exists for the federal government to conduct reverse auctions on fixed-price type contracts or that current law can be interpreted to permit the practice of reverse auctions by the federal agencies.⁷ In addition, some states, such as Pennsylvania and Kansas, have enacted statutes that prohibit procurement of construction through reverse auctions.

III. CONCLUSION

AGC offers these points on reverse auctions in an effort to facilitate and encourage discussion. AGC does not presume to give direction or to provide guidance to members or any other contractors invited to participate in such auctions. Each construction team member must decide whether to participate in reverse auctions, and each must do so entirely on his or her own. However, AGC believes that reverse auctions are an unproven method for selection of construction contractors, specialty contractors, subcontractors, and suppliers. At best, reverse auctions raise significant issues for owners and construction team members, including the following:

- Reverse auctions do not guarantee the lowest price.
- Reverse auctions may encourage imprudent bidding.
- Negotiated procurements allow thorough evaluation of value.
- Sealed bidding assures that the successful bidder is responsive and responsible.
- Reverse auctions may contravene federal procurement laws and certain state laws.

⁷ See, 41USC § 423 and FAR § 52.203-2. It is also unclear whether FAR § 1.102(d) can be interpreted to permit the practice of reverse bid auction by federal agencies without, at a minimum, a waiver of the requirements of the clause at FAR § 52.203-2.

Bold & Underlined Emphasis was Added for:
The USACE Reverse Auction Pilot Program Report

July 3, 2003

MEMORANDUM FOR AGENCY SENIOR PROCUREMENT EXECUTIVES

FROM: Angela B. Styles (signed)
Administrator

SUBJECT: Applicability of FAR Part 12 to Construction Acquisitions

Questions periodically arise as to whether construction needs may be acquired using the policies of FAR Part 12, which addresses the acquisition of commercial items. For the reasons discussed below, Part 12, as currently promulgated, should rarely, if ever, be used for new construction acquisitions or non-routine alteration and repair services. In accordance with long-standing practice, agencies should apply the policies of FAR Part 36 to these acquisitions. Part 36 incorporates provisions and clauses that are generally consistent with customary commercial practices in the construction industry. Part 12 could be used in limited circumstances involving construction contracting -- primarily for routine alteration and repair services as well as for acquisitions of commercial construction materials and associated ancillary services.

The provisions and clauses in FAR Part 36 address all fundamental aspects of construction contracting. Part 36 applies well-established commercial principles that are designed to result in an equitable distribution of risk between the government and contractors. In doing so, Part 36 enables agencies to gain easy access to marketplace capabilities.

By contrast, FAR Part 12 lacks clauses for handling critical circumstances common to construction efforts, especially those involving new construction or non-routine alteration and repair services. Clauses that would typically be expected in these efforts include those addressing differing site conditions, change orders, and suspension of work. The gap in coverage reflects the fact that construction contracting was not generally contemplated when Part 12 was promulgated. **New construction projects and complex alteration and repair, in particular, involve a high degree of variability, including innumerable combinations of site requirements, weather and physical conditions, labor availability, and schedules.** The current coverage in Part 12 fails to allocate risk in a manner that takes into account the nature of these activities.

Contracting for new construction or complex alternations and repair work without the protections of the Part 36 provisions and clauses would likely force contractors to include contingencies in their offers that would unnecessarily drive up construction costs

borne by the taxpayer. **Increased risk also could discourage contractors from bidding on federal projects.** Small businesses, who may lack the financial ability to take on higher levels of risk, may find participation in federal construction contracting to be especially difficult which, in turn, could deprive agencies of the innovation and ingenuity that small businesses offer when given the chance to compete. Simply put, if Part 36 is not used, an agency may be hard pressed to obtain the marketplace competition needed to negotiate fair and reasonable prices on these construction projects.

This memorandum is not intended to limit the goal of FAR Part 12, which is to ensure agencies are effectively positioned to take full advantage of the commercial marketplace and the value and efficiencies the marketplace generates. In fact, Part 12 clauses generally are suited for certain types of construction activities that lack the level of variability found in new construction and complex alteration and repair. In particular, Part 12 generally may be suited for routine painting or carpeting, simple hanging of drywall, everyday electrical or plumbing work, and similar noncomplex services, as well as for purchases of commercial construction material and associated ancillary services. **Of course, as part of acquisition planning, contracting officers need to consider the particular circumstances of a given acquisition (e.g., the likelihood of a differing site condition)** to determine if the current clauses in Part 12 properly allocate risk.

Agencies are reminded that when they proceed with a construction acquisition under *either* Part 36 or Part 12, they must adhere to the policies of FAR Subpart 22.4. This subpart addresses labor standards for contracts involving construction.

I appreciate your careful consideration of this memorandum and ask that you distribute the memorandum widely to contracting, program, legal, and other agency personnel responsible for construction contracting within your agency. I also ask that you promptly review any agency guidance on the applicability of FAR Part 12 to construction acquisitions and change or rescind agency guidance, as necessary, to ensure consistency with this memorandum. Questions regarding this memorandum may be referred to Mathew Blum of my staff at (202) 395-4953.

Appendix A

1.0 INTRODUCTION

As the Project Management Business Process Initiative points out, times have changed. We have evolved into the Age of Information and must adapt to apply current technology and modern business practices to our processes. Hence, the Corps has undertaken this initiative. This initiative supports the Corps strategic vision of process improvement and the development of a learning organization.

The E-Sourcing Pilot Program will allow contracting and the Corps to conduct business in a more transparent, effective, and efficient manner.

- Transparent – e-sourcing provides visibility to the sourcing process and results in true market pricing.
- Effective – the technology provides a fair and unbiased environment to conduct discussions / negotiations and determine the best price for each offer.
- Efficient – true market pricing is typically achieved within a one hour time period.

Furthermore, the E-Sourcing Pilot Program provides contracting personnel with the ability to collaborate, share knowledge, and learn about modern sourcing best practices.

All of this will be accomplished while we continue to serve our customers. In fact, contracting will be better positioned to support project managers and their objective to deliver projects on time and within budget. Applying this technology will help to reduce pricing so that projects can be awarded at full scope or so the customer has the ability to consider additional betterments.

2.0 GOALS

The goals of the E-Sourcing Pilot Program are:

- To educate and train contracting personnel in modern sourcing technology and processes
- To develop and incorporate modern, sourcing best practices within the Corps which may be used to shape policy within the FAR
- To serve customers in a more transparent, effective, and efficient manner and provide them with quality, cost-effective facilities

3.0 SCOPE

E-Sourcing is the use of technology and processes to manage sourcing processes. HQ-USACE conducted a competitive bid among e-sourcing providers and awarded the contract (#GS-35F-0342K) to FreeMarkets, Inc. of Pittsburgh, Pennsylvania. The contract period for the Pilot Program is October 1, 2002 – September 30, 2003. The e-sourcing program will evolve beyond this period as processes and best practices are developed.

Getting Started

FullSource

FullSource is a full-service solution involving both software and services where FreeMarkets' professionals work directly with USACE contracting personnel. FreeMarkets level of involvement is dictated by the USACE contracting team and varies by project. Typical activities and timing is listed below.

Event	Typical	Compressed
Project Id / Validation	D-60	D-16
Project Kickoff Meeting	D-53	D-14
Event Strategy / Lotting Meeting	D-46	D-14
Post Solicitation / Amendment	D-37	D-10
Vendor Conference / Communication	D-30	D-9
Vendor Training	D-12	D-8
Event Day Support	D-7	D-5
Award Contract	D	D

*Note: The event "Award Contract" is only provided as a reference point. USACE personnel evaluate proposals and make all award decisions.

To initiate a FullSource project, contact your division program coordinator (see Appendix B).

QuickSource

An ID and Password is required to access USACE's QuickSource web site. The current contract allows for 20 users per division. Contact your program coordinator for information about obtaining access and training.

Conducting a QuickSource event involves the following steps.

- Identify a project or opportunity
- Create the auction within the website
- Inform vendors that bids will be submitted over the web
- Add vendors to the QuickSource database and invite them to the event
- Bid opening - conduct the online auction and at close have vendors submit a bid schedule to support their best and final bids
- Evaluate all factors of each vendor's submission, including price
- Make an award decision

4.0 PROGRAM MANAGEMENT TEAM

The PARC's office will provide leadership and oversight of the program. Each division will select a pilot district to coordinate and implement the E-Sourcing Pilot Program.

Role	Contact	Responsibilities
Program Manager	LTC Castaldo	Responsible for overall program definition, implementation and results.
Division / District Leadership	Directors and Chiefs of Contracting	Promote usage Set objectives for teams Hold teams accountable for performance Gain buy-in for key internal customers and help clear roadblocks Recognize top performers/participate in award program
Pilot District	(See Appendix)	Participate in opportunity assessments and pipeline building as necessary FullSource and QuickSource support coordination
Power Users	180 - 1102's selected to attend training	Experienced users who have completed certification and transfer expertise to peers
Project Managers	Various	Support sourcing process Gain customer approval Support supplier qualification and implementation efforts

5.0 TOOLS

This program is designed to provide contracting personnel with the tools and training to conduct e-sourcing. The cornerstone of this program is FreeMarkets QS (QuickSource) and FreeMarkets FS (FullSource).

FreeMarkets QS: (self-service) is an easy to use, web-based application that contains powerful tools USACE can use to streamline communications with vendors, more effectively structure and manage on-line sourcing projects (reverse auctions), and make better overall sourcing decisions.

FreeMarkets FS: (full-service) is a comprehensive e-sourcing solution delivered by FreeMarkets sourcing professionals who will work for USACE contracting personnel. It combines industry specific sourcing project management, market operations services, information and knowledge about specific commodities and market dynamics, and the most advanced e-sourcing technology available today.

Additional tools and services provided include:

FreeMarkets QS Training: the contractor will provide two training courses – *FreeMarkets QS Foundations* and *Sourcing with Online Markets*. Each division will receive one on-site training per course. These courses will provide contracting personnel with the training required to conduct their own e-sourcing events.

FreeMarkets QS Support Services: additional support is available for contracting personnel conducting their own events. This support includes the FreeMarkets QS Technical Support Desk, E-Sourcing Support Desk, and FreeMarkets QS Site Administration.

General Support Services: the contractor is available to provide additional support as required. This support includes such items and introductory or information briefings and opportunity assessment workshops.

6.0 PROGRAM DESIGN

6.1 Program Strategy

The program is designed to apply e-sourcing to a variety of contracting strategies and minimize risk by choosing projects that have the highest probability of success. It is intended that each division conduct at least one FullSource bid. The FullSource bid should be the first e-sourcing project so that contracting personnel gain additional expertise by working with FreeMarkets professionals and are then able to apply this knowledge to their own QuickSource projects. The current program allows for 12 FullSource projects and an unlimited number of QuickSource events.

6.2 Program Implementation

The E-Sourcing Pilot Program has three primary stages - introduction, education, and execution.

a. Introduction. The contractor will provide introductory briefings to each division and its pilot district. Additional briefings will be available as necessary to support the introduction and adoption of this program.

b. Education. The phase consists of both formal classes and informal, on-the-job training. The formal training will take place as coordinated by the pilot district for each division. Informal training will occur through the process of conducting a FullSource project with the contractor's experienced sourcing professionals.

c. Execution. This phase includes assessment, execution, and reporting. Assessment will include a formal Opportunity Assessment conducted by the contractor to analyze spend and identify areas of opportunity. From this assessment USACE will work with the contractor to develop an execution plan for both FullSource and QuickSource projects and will execute against that plan.

7.0 MILESTONES

Milestones	Date
Complete Initial Briefings to Divisions / Pilot District	December 15, 2002
Complete Opportunity Assessment	December 15, 2002
Launch USACE QuickSource Site	December 15, 2002
Identify QuickSource Users	December 20, 2002
Initiate QuickSource Training	January 6, 2003
Initiate 1st FullSource Project	January 25, 2003
Complete QS Training	January 30, 2003
6 FS and 90 QS Projects Complete	April 30, 2003
Complete 1 st Draft USACE E-Sourcing Best Practices	May 30, 2003
12 FS and 180 QS Projects Complete	August 30, 2003

8.0 PERFORMANCE MEASUREMENT

8.1 Metrics

Metrics for measuring the performance of this initiative are as follows:

Division	Briefings (2)	Training (Complete)	OA (Complete)	QS Users (20)	FS Projects (1)

No. of Briefings: at a minimum information briefings should be conducted at the division and pilot site. Metric = 2.

Training: users within each division should complete both training courses. Metric = "Complete".

Opportunity Assessment (OA): each division should complete an opportunity assessment. Metric = "Complete".

No. of QuickSource Users: each division is allocated 20 QuickSource users. Metric = 20.

No. of QuickSource Projects: each user should conduct at least one QuickSource event. Metric = 20.

No. of FullSource Projects: each division is allocated at least 1 FullSource event. Metric = 1.

8.2 Reporting

This program will include the following reporting and review:

Report / Review	Purpose	Frequency	Audience
Weekly Management Report	Project Status	Weekly	Program Manager
Monthly Management Report	Program Progress	Monthly	Program Manager, Pilot Site Rep
Quarterly Management Review	Program Strategy, Relationship Development	Quarterly, second week of the quarter	Program Steering Committee

9.0 COMMUNICATION PLAN

9.1 Communication Objectives

- Educate and inform USACE and customers
- Listen to USACE and customer concerns
- Collect and communicate lessons learned and best practices
- Encourage program adoption and usage

9.2 Communication Strategy

Communication Activity / Forum	Completion Date / Milestone
Letter from Sponsor to Contracting Organization	Distributed in Q1-2003
Develop and distribute Tri-fold Brochure	Distributed in Q1-2003
Conduct Introduction Presentations	Conducted in Q1-Q2, 2003
Publish Program Management Plan	Distributed in Q2, 2003
Program Survey Form (See Appendix)	As needed
Conduct Information Presentations (Customer, SAME, Small Business Conference, etc.)	As needed
Internal Newsletter	Quarterly, first edition Q2-2003

APPENDIX A – USACE E-Sourcing Process

What is e-sourcing?

E-Sourcing is the use of technology and processes to accelerate competition and manage sourcing processes.

E-Sourcing encompasses the procurement lifecycle of a project to include:

- Supplier research and database functionality
- Supplier communication
- Dynamic bidding – Reverse Auctions
- Award tracking
- Reporting

There are four critical components to successful e-sourcing:

Sourcing Management: contracting personnel with process, technology, and commodity knowledge.

Supplier Management: effective identification and communication with vendors

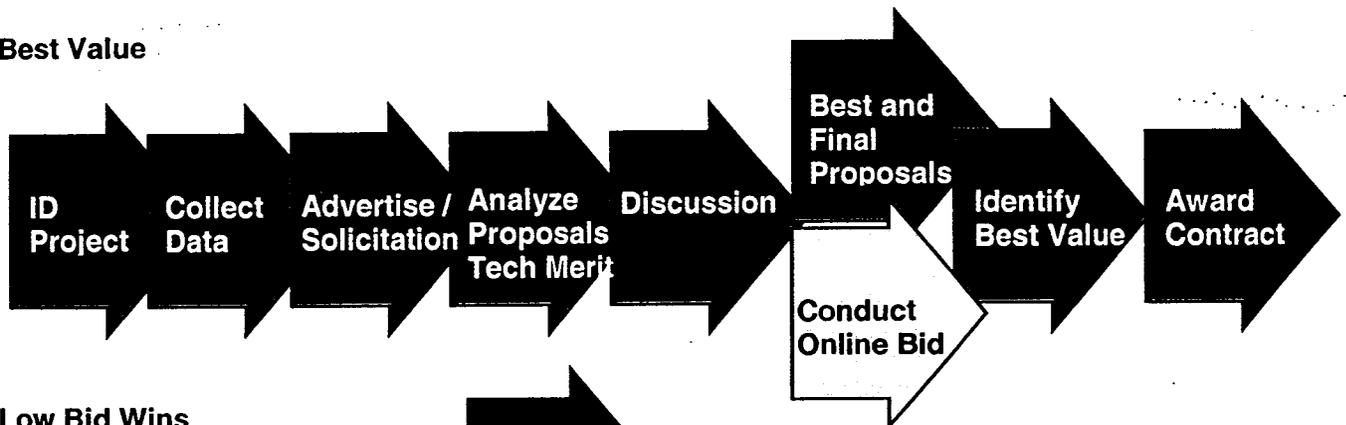
Technology: software with the functionality to accept bids and provide dynamic, real-time feedback allowing suppliers to react to other bids, submit their best bid in response, and achieve true market pricing.

Market Operations: the event support necessary to provide a fair and equal market place, includes such activities as vendor training, surrogate bidding, and help desk support.

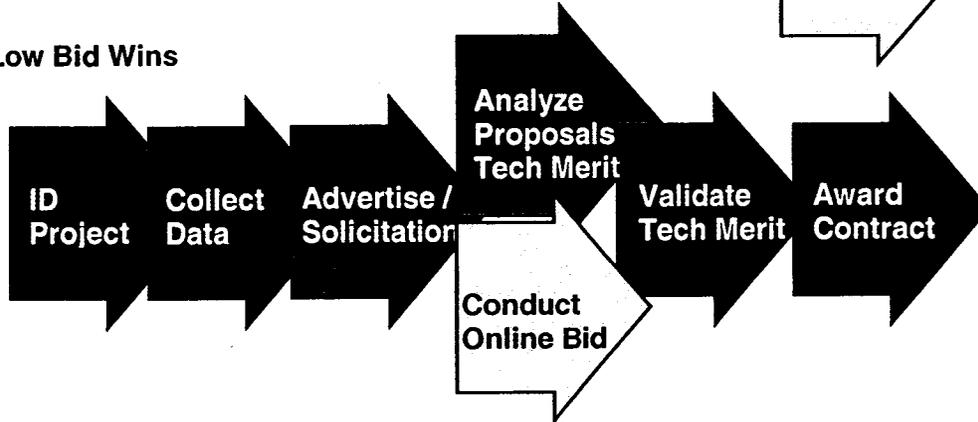
Sourcing Management Process

E-Sourcing works for both Best Value and Low Bid procurement strategies.

Best Value



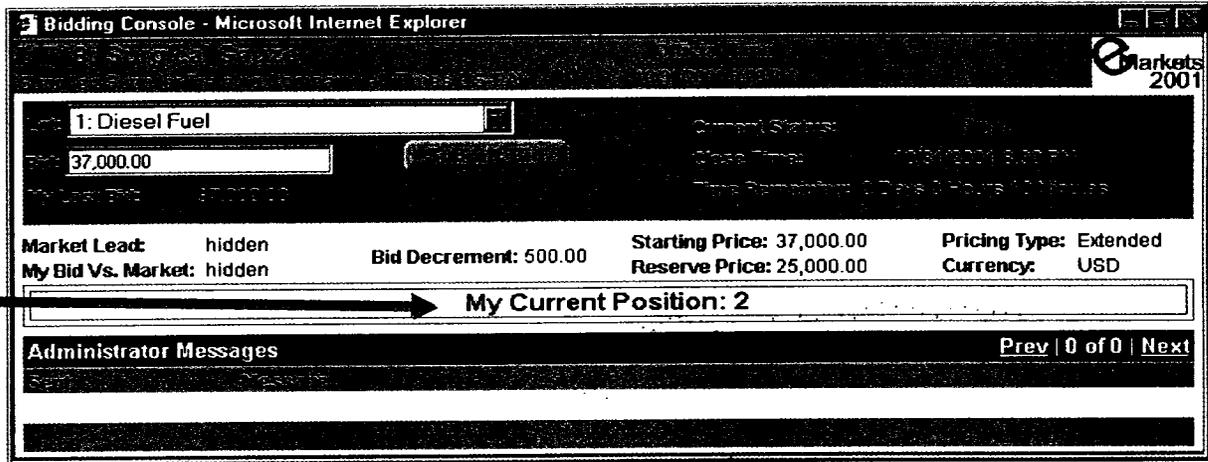
Low Bid Wins



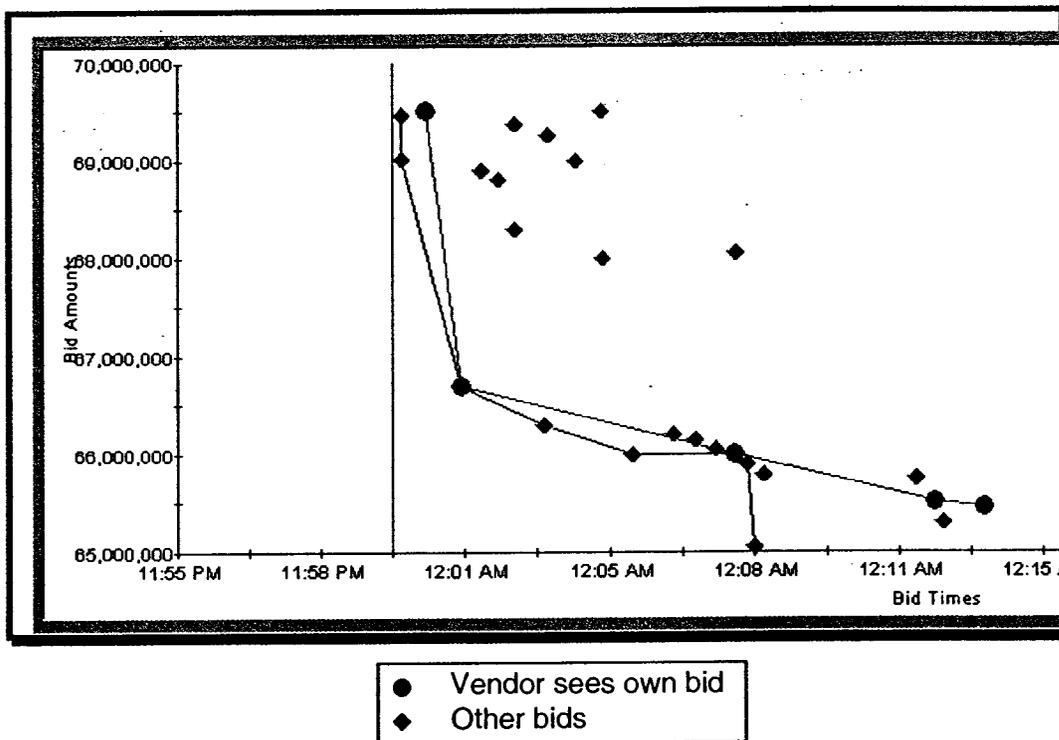
Technology

- Real-time, dynamic price negotiations
- Vendor feedback while maintaining anonymity
- Invitation only event – id and password required
- Complete functionality allowing each vendor to submit their best offer – true market pricing

Customizable technology that allows for optimal results for a variety of projects. Feedback options range from Rank Only



to Full Feedback



Appendix B

USACE Site Contacts

	District	SPT	Contact	Position
N. Atlantic	Division HQ		BG M. Stephen Rhoades	Division Commander
	Division HQ		COL John P. Carroll	Deputy Commander
	Division HQ		Anthony Cochran	Director, Contracting Div
	Baltimore District (CENAB)		COL Fiala	District Engineer
	Baltimore District (CENAB)		LTC Flanigan	Deputy District Engineer
	Baltimore District (CENAB)		Terri Quick	
	Europe District (CENAU)		Martha A. Wolfe	
	New England District (CENAE)			
	New York District (CENAN)		David H. Freedman	Deputy
	Norfolk District (CENAO)		Cherie Kunze	
	Philadelphia District (CENAP)		Robert Sharamatew	Chief, Contracting Div
	Philadelphia District (CENAP)		Elizabeth J. Youse	Contract Specialist
Great Lakes	Division HQ		BG Steven R. Hawkins	Division Commander
	Division HQ		COL Ryan	Deputy Commander
	Division HQ		Susan Erwin	Director, Contracting Div
	Buffalo District (CELRB)			
	Chicago District (CELRC)			
	Detroit District (CELRE)			
	Huntington District (CELRH)			
	Louisville District (CELRL)	SPT	Christy Watts	Chief, Contracting Div
	Louisville District (CELRL)		Mark Yates	Deputy
Great Lakes	Louisville District (CELRL)		Colonel Robert A. Rowlette, Jr	District Engineer
Great Lakes	Louisville District (CELRL)		LTC Richard J.Fagan	Deputy District Engineer

Great Lakes	Louisville District (CELRL)		Dr. Robert Mullins	Deputy District Engineer
Great Lakes	Nashville District (CELRN)			
Great Lakes	Pittsburgh District (CELRP)			
Mississippi	Division HQ		BG Don T. Riley	Division Commander
Mississippi	Division HQ			
	Division HQ	SPT	Richard Johnson	Director, Contracting Div
	Memphis District (CEMVM)			
	New Orleans District (CEMVN)			
	Rock Island District (CEMVR)		Barbara Voss	
	St. Louis District (CEMVS)			
	St. Paul District (CEMVP)	SPT	Eddie Shaw / Kevin Henricks	
	Vicksburg District (CEMVK)			
Northwestern	Division HQ			
Northwestern	Division HQ			
	Division HQ		Joseph (Joe) Scanlan	Director, Contracting Div
	Kansas City District (CENWK)	SPT	JoAnna Black	Chief, Contracting Div
	Omaha District (CENWO)	SPT	Jim Opitz	Chief, Contracting Div
	Portland District (CENWP)			
	Omaha District (CENWO)		Phil Holman	Chief, Military Branch
	Seattle District (CENWS)		Kent Paul	Chief, Contracting Div
Northwestern	Walla Walla District (CENWW)			
South Atlantic	Division HQ			
South Atlantic	Division HQ			
	Division HQ	SPT	Lynn Jennings	Director, Contracting Div

	Charleston District (CESAC)			
	Jacksonville District (CESAJ)		Harley Hartley	Chief, Contracting Div
	Jacksonville District (CESAJ)	SPT	Darlene Ainsworth	Contract Specialist
	Jacksonville District (CESAJ)		COL James G. May	
	Jacksonville District (CESAJ)		LTC Richard D. Peters	Deputy District Engineer
	Jacksonville District (CESAJ)		Richard Bonner	Deputy District Engineer for Project Management
	Jacksonville District (CESAJ)		Edward Dias	Chief, supplier services
	Jacksonville District (CESAJ)	X	Edwin Wilcher	Contract Specialist
	Jacksonville District (CESAJ)	X	Cindi Tolle	C/CERP Branch
	Mobile District (CESAM)			
	Savannah District (CESAS)	SPT	Kathleen Achord	Chief, Military Branch
	Savannah District (CESAS)		Louis J. Moore	Chief, Contracting Div
South Atlantic	Wilmington District (CESAW)			
South Pacific	Division HQ		BG Larry Davis	Division Commander
South Pacific	Division HQ			
	Division HQ		Ray Suderman	Director, Contracting Div
	Albuquerque District (CESPA)			
	Los Angeles District (CESPL)		COL Thompson	District Engineer
	Los Angeles District (CESPL)	SPT	Dan Mckercher	Chief, Contracting Div
	Los Angeles District (CESPL)		MAJ Doug Schuetz	Deputy Chief
	Los Angeles District (CESPL)		MAJ Pool	
	Sacramento District (CESPK)	SPT	Ruth Ijames	Chief, Contracting Div
South Pacific	San Francisco District (CESPN)		Linda Hales	Chief, Contracting Div

Southwestern	Division HQ		Colonel (P) Robert Crear	Division Commander
Southwestern	Division HQ		COL Schultz	Deputy Commander
	Division HQ		Gordon A. Sumner	Director, Contracting Div
	Fort Worth District (CESWF)		Debbie Pulling	Chief, Contracting Div
	Fort Worth District (CESWF)		Maureen Q. Taylor	Chief, Contracting Div
	Fort Worth District (CESWF)		Lisa C. Billman	Procurement Analyst
	Galveston District (CESWG)		Thomas A. Benero	Chief, Contracting Div
	Little Rock District (CESWL)	SPT	Sandra Easter	Chief, Contracting Div
	Tulsa District (CESWT)			
Pacific Ocean	Division HQ			
Pacific Ocean	Division HQ			
	Division HQ		Alex Lau	Director, Contracting Div
	Alaska District (CEPOA)		Madonna Southcott	Chief, Contracting Div
	Far East District (CEPOF)			
	Honolulu District (CEPOH)		David Kam	Chief, Contracting Div
Pacific Ocean	Japan Engineer District (CEPOJ)			
Center	U.S. Army EN & SPT Center (CEHNC)	SPT	J. R. Richardson	Director, Contracting Div
	U.S. Army EN & SPT Center (CEHNC)		Kathy Simmons	Procurement Analyst - TL
	USACE-HQ		Parag Rawal	Legal Counsel
	USACE-HQ		Mike Adams	Legal Counsel
	Seattle District		Kent Paul	Chief, Contracting Div

Appendix C

QS Users by Division and District

Users By Division

SWD	Southwestern	14
SAD	South Atlantic	28
NAD	North Atlantic	13
LRD	Great Lakes	13
MVD	Mississippi Valley	19
NWD	Northwestern	10
SPD	South Pacific	23
POD	Pacific Ocean	4
HND	Centers & Labs	11
		<hr/>
		135
		<hr/>

Users By District

1	Jacksonville	14
2	Charleston	1
3	Mobile	2
4	Savannah	10
5	Wilmington	1
6	Galveston	4
7	Fort Worth	6
8	Little Rock	2
9	Tulsa	2
10	Buffalo	1
11	Chicago	1
12	Detroit	0
13	Huntington	1
14	Louisville	8
15	Nashville	1
16	Pittsburgh	1
17	Baltimore	1
18	New England	1
19	New York	1
20	Norfolk	1
21	Philadelphia	9
22	Memphis	2
23	New Orleans	5
24	Rock Island	2
25	St. Louis	2
26	St. Paul	3
27	Vicksburg	5
28	Kansas City	2
29	Omaha	8
30	Portland	0
31	Seattle	0
32	Walla Walla	0
33	Albuquerque	1
34	Los Angeles	19
35	Sacramento	3

36	San Francisco	0
37	Alaska	0
38	Honolulu	4
39	Huntsville	10
40	Germany	0

FreeMarkets QS Training Attendees

Last Name*	First Name*	Division	Location (District)	Phone*	Email*	Address 1*	City*	State*
Brown	Gena	Southwestern Division	Fort Worth				Fort Worth	TX
Hodge Sneed	Cheryl	Southwestern Division	Fort Worth				Fort Worth	TX
Nelson	Cathy	Southwestern Division	Fort Worth				Fort Worth	TX
Eadie	Linda	Southwestern Division	Fort Worth				Fort Worth	TX
Vann	Vernon	Southwestern Division	Fort Worth				Fort Worth	TX
Smith	Lucille	Southwestern Division	Galveston				Galveston	TX
Robichaux	Traci	Southwestern Division	Galveston				Galveston	TX
Cole	Curtis	Southwestern Division	Galveston				Galveston	TX
Hinkle	Gene	Southwestern Division	Fort Worth				Fort Worth	TX
Mail	Susie	Southwestern Division	Tulsa				Tulsa	OK
Chronister	Pam	Southwestern Division	Tulsa				Tulsa	OK
Holmes	Janel	Southwestern Division	Little Rock				Little Rock	AR
Anderson	Judy	Southwestern Division	Little Rock				Little Rock	AR
Nelson	Carol	Southwestern Division	Galveston				Galveston	TX
Hocker	Linda	U.S. Army Engineering and Support	Huntsville				Huntsville	AL
Hodge	Gail	U.S. Army Engineering and Support	Huntsville				Huntsville	AL
Burton	Lonnie	U.S. Army Engineering and Support	Huntsville				Huntsville	AL
Meeks	Kayn	U.S. Army Engineering and Support	Huntsville				Huntsville	AL
Vaughn	Rebecca	U.S. Army Engineering and Support	Huntsville				Huntsville	AL
Williams	Eliery	U.S. Army Engineering and Support	Huntsville				Huntsville	AL
Jefferson	Archie	U.S. Army Engineering and Support	Huntsville				Huntsville	AL
Nelson	Jewel	U.S. Army Engineering and Support	Huntsville				Huntsville	AL
Charie Kunze		North Atlantic	Norfolk				Norfolk	VA
Sandi Fletcher		North Atlantic	Philadelphia				Philadelphia	PA
Terrl Quirk		North Atlantic	Baltimore				Baltimore	MD
Julie Mackey	NO LONGER IN C	North Atlantic	New England				Concord	MA
Karen Thorngren		North Atlantic	Philadelphia				Philadelphia	PA
Denise DeTita		North Atlantic	Philadelphia				Philadelphia	PA
David H. Freedman		North Atlantic	New York				New York	NY
Maureen Jordan		North Atlantic	Philadelphia				Philadelphia	PA
Elaine Bolden		North Atlantic	Philadelphia				Philadelphia	PA
Lewis Ayers		North Atlantic	Philadelphia				Philadelphia	PA
Jennifer McGivern		North Atlantic	Philadelphia				Philadelphia	PA
Michelle Bertoline		North Atlantic	Philadelphia				Philadelphia	PA
Helena DiNoia		North Atlantic	Philadelphia				Philadelphia	PA
Mark Coniglia		NAD	Division				New York	NY
Diana Lewis		Great Lakes & Ohio River Valley Div	Louisville				Louisville	KY
Rita Burns.		Great Lakes & Ohio River Valley Div	Louisville				Louisville	KY
Yong Foson		Great Lakes & Ohio River Valley Div	Louisville				Louisville	KY
Darri Barber		Great Lakes & Ohio River Valley Div	Pittsburgh				Pittsburgh	PA
Debra Bruner		Great Lakes & Ohio River Valley Div	Louisville				Louisville	KY
Corrie Conlaey		Great Lakes & Ohio River Valley Div	Huntington				Huntington	WV
Richard Refner		Great Lakes & Ohio River Valley Div	Buffalo				Buffalo	NY

Last Name*	First Name*	Division	Location (District)	Phone*	Email*	Address 1*	City	State*
Kathrine McClendon		Great Lakes & Ohio River Valley Div	Chicago				Chicago	IL
Beryl Newsome		Great Lakes & Ohio River Valley Div	Nashville				Nashville	TN
Denise Gill		Great Lakes & Ohio River Valley Div	Louisville				Louisville	KY
Christy Watts		Great Lakes & Ohio River Valley Div	Louisville				Louisville	KY
Kim McKnight		Great Lakes & Ohio River Valley Div	Louisville				Louisville	KY
Janet Henderzais		Great Lakes & Ohio River Valley Div	Louisville				Louisville	KY
Edwina Fryvall		South Atlantic Division	Savannah				Savannah	GA
Kathleen Achord		South Atlantic Division	Savannah				Savannah	GA
Vicki Tipton		South Atlantic Division	Jacksonville				Jacksonville	FL
Debra Overstreet		South Atlantic Division	Jacksonville				Jacksonville	FL
Charles Cornelly		South Atlantic Division	Jacksonville				Jacksonville	FL
Julie Bales		South Atlantic Division	Jacksonville				Jacksonville	FL
Beth Myers		South Atlantic Division	Jacksonville				Jacksonville	FL
Edwin Witcher		South Atlantic Division	Jacksonville				Jacksonville	FL
Lerneta Jennings	DIRECTOR	South Atlantic Division	Jacksonville				Jacksonville	FL
Cindi Tolle		South Atlantic Division	Jacksonville				Jacksonville	FL
Darlene Ainsworth		South Atlantic Division	Jacksonville				Jacksonville	FL
Margaret Schools		South Atlantic Division	Wilmington				Wilmington	NC
Griselle Gonzalez		South Atlantic Division	Jacksonville				Jacksonville	FL
Dolly Colwell		South Atlantic Division	Jacksonville				Jacksonville	FL
Pamela Owens		South Atlantic Division	Jacksonville				Jacksonville	FL
Brenda Martin		South Atlantic Division	Jacksonville				Jacksonville	FL
John Szep		South Atlantic Division	Jacksonville				Jacksonville	FL
Linda Stanley		South Atlantic Division	Mobile				Mobile	AL
Jacelyn Jenkins		South Atlantic Division	Mobile				Mobile	AL
Bob Driscoll		South Atlantic Division	Charleston				Charleston	SC
LTC Casialdo		U.S. Army Engineering and Support	HQ					
Philip Holman		Northwestern Division	Omaha				Omaha	NE
Cindy Siford		Northwestern Division	Omaha				Omaha	NE
Lee McCormick		Northwestern Division	Omaha				Omaha	NE
Diana Vanderzanden		Northwestern Division	Omaha				Omaha	NE
Leigh Ann Lucas		Northwestern Division	Omaha				Omaha	NE
Kevin McElroy		Northwestern Division	Omaha				Omaha	NE
Aleasha Cotton		Northwestern Division	Omaha				Omaha	NE
Alvin Butler		Northwestern Division	Omaha				Omaha	NE
Cornie Forney		Mississippi Valley Division	Memphis District (CEM)				Memphis	TN
Barbara Fowler		Mississippi Valley Division	Memphis District (CEM)				Memphis	TN
Marlyn Aird		Mississippi Valley Division	St. Louis District (CEM)				St. Louis	MO
Lisa Gross		Mississippi Valley Division	St. Louis District (CEM)				St. Louis	MO
Barbara Voss		Mississippi Valley Division	Rock Island District (CEM)				Rock Island	IL
Kevin Herricks		Mississippi Valley Division	St. Paul District (CEMV)				St. Paul	MN
William Hurley		Mississippi Valley Division	St. Paul District (CEMV)				St. Paul	MN
Eddie Shaw		Mississippi Valley Division	St. Paul District (CEMV)				St. Paul	MN
Oliver C Meeks		Mississippi Valley Division	Vicksburg District (CEM)				Vicksburg	MS

Last Name*	First Name*	Division	Location (District)	Phone*	Email*	Address 1*	City*	State*
Sally Laingang		Mississippi Valley Division	New Orleans District (CE)				New Orleans	LA
Aline Smith		Mississippi Valley Division	New Orleans District (CE)				New Orleans	LA
Gerald Sanderson		Mississippi Valley Division	New Orleans District (CE)				New Orleans	LA
Jack Little		Mississippi Valley Division	Vicksburg District (CEM)				Vicksburg	MS
Carla Koestler		Mississippi Valley Division	Vicksburg District (CEM)				Vicksburg	MS
Laure Bagby		Mississippi Valley Division	Vicksburg District (CEM)				Vicksburg	MS
Robin Green		Mississippi Valley Division	Vicksburg District (CEM)				Vicksburg	MS
Ione Cataldo		Mississippi Valley Division	New Orleans District (CE)				New Orleans	LA
Dianne Allen		Mississippi Valley Division	New Orleans District (CE)				New Orleans	LA
Marla Buckner		Pacific Ocean Division	Honolulu District (CEPOH)				Fort Shafter	HI
Carrie Wakurnolo		Pacific Ocean Division	Honolulu District (CEPOH)				Fort Shafter	HI
Joy Sakamoto		Pacific Ocean Division	Honolulu District (CEPOH)				Fort Shafter	HI
Jerr Salto		Pacific Ocean Division	Honolulu District (CEPOH)				Fort Shafter	HI
Cheryl Gannaway		South Pacific Division	Sacramento District (CE)				Sacramento	CA
Lynn Tupete		South Pacific Division	Sacramento District (CE)				Sacramento	CA
Shirley Martin		South Pacific Division	Albuquerque District (CE)				Sacramento	CA
Andrea Lea		South Pacific Division	Albuquerque District (CE)				Sacramento	CA
Major Kim Colton		South Pacific Division	Los Angeles District (CE)				Albuquerque	NM
Karen Warren		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Richard Cirianny		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Barbara Cover Spear		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Richard Cirianny		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Mania Cisneros		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Tina Chavez		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Lucia Carvajal		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Kimberl Gray		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Julie Ayala		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Mary Ann Powers		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Tina Frazier		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Sandy Oliver-Hall		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Diane Watkins		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Mathews P. Turner		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Nino Issakhan		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Marcela Zamora		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Cigla L. Jimenez		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Sharon Morrow		South Pacific Division	Los Angeles District (CE)				Los Angeles	CA
Conrad Baker		Mississippi Valley Division	Rock Island District (CE)				Rock Island	IL
Linda Elliott		South Atlantic Division	Savannah				Savannah	GA
Sandra Meyers		South Atlantic Division	Savannah				Savannah	GA
Donna Knight		South Atlantic Division	Savannah				Savannah	GA
Mary Corbin		South Atlantic Division	Savannah				Savannah	GA
Elaine Parker		South Atlantic Division	Savannah				Savannah	GA
Russette Hazelwood		South Atlantic Division	Savannah				Savannah	GA
Ingeborg Miller		South Atlantic Division	Savannah				Savannah	GA
Cheryl Jackson		South Atlantic Division	Savannah				Savannah	GA

Last Name	First Name	Division	Location (Detailed)	Phone	Email	Address (Detailed)	City	State
Member	Sub	U.S. Army Engineering and Support Northwestern Division	Hartsville				Hartsville	AL
Paul Vetter-Schiffman		Northwestern Division	Kansas City				Kansas City	MO
Kathryn Pope		U.S. Army Engineering and Support	Hartsville				Hartsville	AL

Appendix E

FreeMarkets' Program Management

Each FullSource customer receives a dedicated account team, which supervises all sourcing projects, builds spend pipelines, creates internal support and compliance, provides management reporting, and drives success of sourcing through FreeMarkets within an organization in the following ways:

- Single point of accountability – the Program Manager is the key person for all FreeMarkets activities and is responsible for coordinating all necessary resources to best serve USACE's needs.
- Pipeline Building and Management – Program Managers are responsible for building a robust spend pipeline by evaluating needs, spend availability, and commodity-specific opportunity assessment to identify and tee-up relevant spend categories for bid. Program management then drives spend from the pipeline to FreeMarkets' global sourcing market to ensure that USACE will achieve maximum ROI.
- Organizational Change Management – the FreeMarkets Program Manager will work in concert with the USACE sourcing organization to drive internal support for sourcing through FreeMarkets and facilitates adoption through formal and informal discussions and presentations, collateral dissemination, and sourcing program design. The FreeMarkets Program Manager who will be assigned to USACE has worked extensively across the semiconductor industry and will share best practices for organizational change with USACE.
- Market Management – Program Managers work in conjunction with sourcing organizations and FreeMarkets to facilitate the process of creating and executing online markets through FullSource. Program Managers follow markets from project kick-off through completion with the USACE sourcing champion and buying team. Often, Program Managers will coordinate across business units or divisions to leverage potential spend for maximum savings.
- Program Design – As part of the FullSource offering, Program Managers address the needs of each customer by helping to design and implement unique sourcing programs. The Program Manager will work with the USACE sourcing organization to define individual and organizational objectives, and determine the right blend of software and services necessary to meet these objectives.

APPENDIX F

12 March 2003

MEMORANDUM FOR Chief of Contracting, Alaska District

SUBJECT: USACE E-Sourcing Pilot Program

1. By now you should be aware that congress has provided USACE with funding to conduct a pilot program for e-Sourcing. This program is another leg in the journey of process improvement and has three primary functions:

- educate and train our contracting personnel in e-sourcing
- develop and incorporate modern, sourcing best practices for the Corps and eventually all of DOD
- help us provide our customers with quality, cost-effective facilities

The E-Sourcing Pilot Program currently provides commercial-web-based technology and services to conduct e-sourcing and reverse auctions.

2. The contractor, FreeMarkets, Inc. of Pittsburgh, Pennsylvania, has conducted an initial Opportunity Assessment to identify projects that would support USACE's e-sourcing program strategy.

a. Program Strategy. The program is designed to apply e-sourcing to a variety of contracting strategies and minimize risk by choosing projects that have the highest probability of success. It is intended that each division conduct at least one FullSource bid. The FullSource bid should be the first e-sourcing project so that contracting personnel gain additional expertise by working with FreeMarkets professionals and are then able to apply this knowledge to their own QuickSource projects. The current program allows for 12 FullSource projects and an unlimited number of QuickSource events.

b. Opportunity Assessment. FreeMarkets, Inc. reviewed over 300 currently advertised projects across the Corps and selected 41 solid opportunities. Of those, eleven were recommended in support of USACE's e-sourcing strategy.

c. District Projects. The potential e-sourcing projects within your district are identified below. Consider using the resources within this program for your projects.

District	Type	Solicitation Number	Title	Location	Issue Date	Closure Date	Range/Est.
Alaska	Const-RFP		FTR Fencing	D/B/B		7/3/03	\$5,000,000
Alaska	Const-RFP		FTR Barracks PH III	D/B/B		9/3/03	\$25,000,000
Alaska	MATOC		FTW Brgd Motor Pool	D/B/MATOC		5/3/03	\$25,000,000
Alaska	Const-RFP		YTA Training Range	D/B/B		5/3/03	\$25,000,000
Alaska	MATOC		FTW BnHQ	D/B/MATOC		6/3/03	\$25,000,000
Alaska	MATOC		FTW Family Housing	D/MATOC/B		8/2/03	\$25,000,000
Alaska	MATOC		FTW JRNCO Housing	D/MATOC/B		9/3/03	\$25,000,000
Alaska	MATOC		FTR FRA Community Center	MATOC/D/B		9/3/03	\$25,000,000

SUBJECT: USACE E-Sourcing Pilot Program (Continued)

3. FullSource is a full-service solution involving both software and services where FreeMarkets' professionals work directly with USACE contracting personnel. FreeMarkets level of involvement is dictated by the USACE contracting team and varies by project. Typical activities and timing is listed below.

Event	Typical	Range/Range
Project Id / Validation	D-60	D-16
Project Kickoff Meeting	D-53	D-14
Event Strategy / Lotting Meeting	D-46	D-14
Post Solicitation / Amendment	D-37	D-10
Vendor Conference / Communication	D-30	D-9
Vendor Training	D-12	D-8
Event Day Support	D-7	D-5
Award Contract	D	D

*Note: The event "Award Contract" is only provided as a reference point. USACE personnel evaluate proposals and make all award decisions.

4. The contractor is available to provide additional information and briefings as required. For additional information or to initiate a FullSource project, contact Scott Tikalsky (412-297-7868, stikalsky@freemarkets.com) or the undersigned at 202-761-8645.

Albert J. Castaldo
LTC,
Deputy PARC

12 March 2003

MEMORANDUM FOR Chief of Contracting, Fort Worth District

SUBJECT: USACE E-Sourcing Pilot Program

1. By now you should be aware that congress has provided USACE with funding to conduct a pilot program for e-Sourcing. This program is another leg in the journey of process improvement and has three primary functions:

- educate and train our contracting personnel in e-sourcing
- develop and incorporate modern, sourcing best practices for the Corps and eventually all of DOD
- help us provide our customers with quality, cost-effective facilities

The E-Sourcing Pilot Program currently provides commercial-web-based technology and services to conduct e-sourcing and reverse auctions.

2. The contractor, FreeMarkets, Inc. of Pittsburgh, Pennsylvania, has conducted an initial Opportunity Assessment to identify projects that would support USACE's e-sourcing program strategy.

a. Program Strategy. The program is designed to apply e-sourcing to a variety of contracting strategies and minimize risk by choosing projects that have the highest probability of success. It is intended that each division conduct at least one FullSource bid. The FullSource bid should be the first e-sourcing project so that contracting personnel gain additional expertise by working with FreeMarkets professionals and are then able to apply this knowledge to their own QuickSource projects. The current program allows for 12 FullSource projects and an unlimited number of QuickSource events.

b. Opportunity Assessment. FreeMarkets, Inc. reviewed over 300 currently advertised projects across the Corps and selected 41 solid opportunities. Of those, eleven were recommended in support of USACE's e-sourcing strategy.

c. District Projects. The potential e-sourcing projects within your district are identified below. Consider using the resources within this program for your projects.

Type	Solicitation Number	Title	Location	Issue Date	Closing Date	Range Top
Const-IFB	DACW63-03-B-0001	CONSTRUCT BORDER PATROL STATION	SANDERSON, TEXAS	3/21/2003	4/21/2003	\$5,000,000
Const-IFB	DACA63-03-B-0001	Enlisted Barracks Complex III	Fort Hood, Texas	4/28/2003	5/28/2003	

3. FullSource is a full-service solution involving both software and services where FreeMarkets' professionals work directly with USACE contracting personnel. FreeMarkets level of involvement is dictated by the USACE contracting team and varies by project. Typical activities and timing is listed below.

SUBJECT: USACE E-Sourcing Pilot Program (Continued)

Event	Typical	Compressed
Project Id / Validation	D-60	D-16
Project Kickoff Meeting	D-53	D-14
Event Strategy / Lotting Meeting	D-46	D-14
Post Solicitation / Amendment	D-37	D-10
Vendor Conference / Communication	D-30	D-9
Vendor Training	D-12	D-8
Event Day Support	D-7	D-5
Award Contract	D	D

*Note: The event "Award Contract" is only provided as a reference point. USACE personnel evaluate proposals and make all award decisions.

4. The contractor is available to provide additional information and briefings as required. For additional information or to initiate a FullSource project, contact Scott Tikalsky (412-297-7868, stikalsky@freemarkets.com) or the undersigned at 202-761-8645.

Albert J. Castaldo
LTC,
Deputy PARC

12 March 2003

MEMORANDUM FOR Chief of Contracting, US Army Engineering and Support Center

SUBJECT: USACE E-Sourcing Pilot Program

1. By now you should be aware that congress has provided USACE with funding to conduct a pilot program for e-Sourcing. This program is another leg in the journey of process improvement and has three primary functions:

- educate and train our contracting personnel in e-sourcing
- develop and incorporate modern, sourcing best practices for the Corps and eventually all of DOD
- help us provide our customers with quality, cost-effective facilities

The E-Sourcing Pilot Program currently provides commercial-web-based technology and services to conduct e-sourcing and reverse auctions.

2. The contractor, FreeMarkets, Inc. of Pittsburgh, Pennsylvania, has conducted an initial Opportunity Assessment to identify projects that would support USACE's e-sourcing program strategy.

a. Program Strategy. The program is designed to apply e-sourcing to a variety of contracting strategies and minimize risk by choosing projects that have the highest probability of success. It is intended that each division conduct at least one FullSource bid. The FullSource bid should be the first e-sourcing project so that contracting personnel gain additional expertise by working with FreeMarkets professionals and are then able to apply this knowledge to their own QuickSource projects. The current program allows for 12 FullSource projects and an unlimited number of QuickSource events.

b. Opportunity Assessment. FreeMarkets, Inc. reviewed over 300 currently advertised projects across the Corps and selected 41 solid opportunities. Of those, eleven were recommended in support of USACE's e-sourcing strategy.

c. District Projects. The potential e-sourcing projects within your district are identified below. Consider using the resources within this program for your projects.

12 March 2003

MEMORANDUM FOR Chief of Contracting, Kansas City District

SUBJECT: USACE E-Sourcing Pilot Program

1. By now you should be aware that congress has provided USACE with funding to conduct a pilot program for e-Sourcing. This program is another leg in the journey of process improvement and has three primary functions:

- educate and train our contracting personnel in e-sourcing
- develop and incorporate modern, sourcing best practices for the Corps and eventually all of DOD
- help us provide our customers with quality, cost-effective facilities

The E-Sourcing Pilot Program currently provides commercial-web-based technology and services to conduct e-sourcing and reverse auctions.

2. The contractor, FreeMarkets, Inc. of Pittsburgh, Pennsylvania, has conducted an initial Opportunity Assessment to identify projects that would support USACE's e-sourcing program strategy.

a. Program Strategy. The program is designed to apply e-sourcing to a variety of contracting strategies and minimize risk by choosing projects that have the highest probability of success. It is intended that each division conduct at least one FullSource bid. The FullSource bid should be the first e-sourcing project so that contracting personnel gain additional expertise by working with FreeMarkets professionals and are then able to apply this knowledge to their own QuickSource projects. The current program allows for 12 FullSource projects and an unlimited number of QuickSource events.

b. Opportunity Assessment. FreeMarkets, Inc. reviewed over 300 currently advertised projects across the Corps and selected 41 solid opportunities. Of those, eleven were recommended in support of USACE's e-sourcing strategy.

c. District Projects. The potential e-sourcing projects within your district are identified below. Consider using the resources within this program for your projects.

Type	Solicitation Number	Title	Location	Issue Date	Closing Date	Range Top
Const-IFB	DACA41-03-B-0002	Construction of Access Cor	Ft. Leanordwood, MO	4/3/2003	5/5/2003	\$10,000,000
MATOC	DACA41-03-R-0002	Design-build replace family	Whiteman AFB, Missouri	3/7/2003	4/3/2003	\$20,000,000

3. FullSource is a full-service solution involving both software and services where FreeMarkets' professionals work directly with USACE contracting personnel. FreeMarkets level of involvement is dictated by the USACE contracting team and varies by project. Typical activities and timing is listed below.

SUBJECT: USACE E-Sourcing Pilot Program (Continued)

Event	Typical	Compressed
Project Id / Validation	D-60	D-16
Project Kickoff Meeting	D-53	D-14
Event Strategy / Lotting Meeting	D-46	D-14
Post Solicitation / Amendment	D-37	D-10
Vendor Conference / Communication	D-30	D-9
Vendor Training	D-12	D-8
Event Day Support	D-7	D-5
Award Contract	D	D

*Note: The event "Award Contract" is only provided as a reference point. USACE personnel evaluate proposals and make all award decisions.

4. The contractor is available to provide additional information and briefings as required. For additional information or to initiate a FullSource project, contact Scott Tikalsky (412-297-7868, stikalsky@freemarkets.com) or the undersigned at 202-761-8645.

Albert J. Castaldo
LTC,
Deputy PARC

12 March 2003

MEMORANDUM FOR Chief of Contracting, Louisville District

SUBJECT: USACE E-Sourcing Pilot Program

1. By now you should be aware that congress has provided USACE with funding to conduct a pilot program for e-Sourcing. This program is another leg in the journey of process improvement and has three primary functions:

- educate and train our contracting personnel in e-sourcing
- develop and incorporate modern, sourcing best practices for the Corps and eventually all of DOD
- help us provide our customers with quality, cost-effective facilities

The E-Sourcing Pilot Program currently provides commercial-web-based technology and services to conduct e-sourcing and reverse auctions.

2. The contractor, FreeMarkets, Inc. of Pittsburgh, Pennsylvania, has conducted an initial Opportunity Assessment to identify projects that would support USACE's e-sourcing program strategy.

a. Program Strategy. The program is designed to apply e-sourcing to a variety of contracting strategies and minimize risk by choosing projects that have the highest probability of success. It is intended that each division conduct at least one FullSource bid. The FullSource bid should be the first e-sourcing project so that contracting personnel gain additional expertise by working with FreeMarkets professionals and are then able to apply this knowledge to their own QuickSource projects. The current program allows for 12 FullSource projects and an unlimited number of QuickSource events.

b. Opportunity Assessment. FreeMarkets, Inc. reviewed over 300 currently advertised projects across the Corps and selected 41 solid opportunities. Of those, eleven were recommended in support of USACE's e-sourcing strategy.

c. District Projects. The potential e-sourcing projects within your district are identified below. Consider using the resources within this program for your projects.

Type	Solicitation Number	Title	Location	Issue Date	Closing Date	Range Top
Const-RFP	<u>DACA27-03-R-0003</u>	CSG Barrcks Complex	Ft Campbell, KY	11/4/2002	3/27/2003	\$100,000,000
Const-RFP	<u>DACA27-03-B-0003</u>	U S Army Reserve Center,	Oswego, NY	1/6/2003	4/10/2003	\$10,000,000

3. FullSource is a full-service solution involving both software and services where FreeMarkets' professionals work directly with USACE contracting personnel. FreeMarkets level of involvement is dictated by the USACE contracting team and varies by project. Typical activities and timing is listed below.

12 March 2003

MEMORANDUM FOR Chief of Contracting, Omaha District

SUBJECT: USACE E-Sourcing Pilot Program

1. By now you should be aware that congress has provided USACE with funding to conduct a pilot program for e-Sourcing. This program is another leg in the journey of process improvement and has three primary functions:

- educate and train our contracting personnel in e-sourcing
- develop and incorporate modern, sourcing best practices for the Corps and eventually all of DOD
- help us provide our customers with quality, cost-effective facilities

The E-Sourcing Pilot Program currently provides commercial-web-based technology and services to conduct e-sourcing and reverse auctions.

2. The contractor, FreeMarkets, Inc. of Pittsburgh, Pennsylvania, has conducted an initial Opportunity Assessment to identify projects that would support USACE's e-sourcing program strategy.

a. Program Strategy. The program is designed to apply e-sourcing to a variety of contracting strategies and minimize risk by choosing projects that have the highest probability of success. It is intended that each division conduct at least one FullSource bid. The FullSource bid should be the first e-sourcing project so that contracting personnel gain additional expertise by working with FreeMarkets professionals and are then able to apply this knowledge to their own QuickSource projects. The current program allows for 12 FullSource projects and an unlimited number of QuickSource events.

b. Opportunity Assessment. FreeMarkets, Inc. reviewed over 300 currently advertised projects across the Corps and selected 41 solid opportunities. Of those, eleven were recommended in support of USACE's e-sourcing strategy.

c. District Projects. The potential e-sourcing projects within your district are identified below. Consider using the resources within this program for your projects.

Type	Solicitation Number	Title	Location	Issue Date	Closing Date	Range Top
Service&Supply	DACA45-03-R-0019	Environmental Remediation	NWD Boundaries and any Ex	3/11/2003	4/25/2003	\$4,000,000
Service&Supply	DACA45-03-R-0027	FPRI ENVIRONMENTAL R	Nationwide including US Terr	3/21/2003	4/30/2003	\$200,000,000
Const-IFB		Lodging Facility addition	Minneapolis, MN	6/1/2003	8/1/2003	\$5,000,000
Const-IFB	DACW45-03-B-0015	BANK STABILIZATION, NI	RIVERDALE, NORTH DAKO	3/19/2003	4/18/2003	\$500,000
Const-RFP	DACA45-03-R-0017	WING HQ/ADMINISTRATI	BUCKLEY AFB, COLORADO	3/17/2003	4/29/2003	\$10,000,000

3. FullSource is a full-service solution involving both software and services where FreeMarkets' professionals work directly with USACE contracting personnel. FreeMarkets level of involvement is dictated by the USACE contracting team and varies by project. Typical activities and timing is listed below.

Event	Typical	Compressed
Project Id / Validation	D-60	D-16
Project Kickoff Meeting	D-53	D-14
Event Strategy / Lotting Meeting	D-46	D-14
Post Solicitation / Amendment	D-37	D-10
Vendor Conference / Communication	D-30	D-9
Vendor Training	D-12	D-8
Event Day Support	D-7	D-5
Award Contract	D	D

*Note: The event "Award Contract" is only provided as a reference point. USACE personnel evaluate proposals and make all award decisions.

4. The contractor is available to provide additional information and briefings as required. For additional information or to initiate a FullSource project, contact Scott Tikalsky (412-297-7868, stikalsky@freemarkets.com) or the undersigned at 202-761-8645.

Albert J. Castaldo
LTC,
Deputy PARC

12 March 2003

MEMORANDUM FOR Chief of Contracting, Savannah District

SUBJECT: USACE E-Sourcing Pilot Program

1. By now you should be aware that congress has provided USACE with funding to conduct a pilot program for e-Sourcing. This program is another leg in the journey of process improvement and has three primary functions:

- educate and train our contracting personnel in e-sourcing
- develop and incorporate modern, sourcing best practices for the Corps and eventually all of DOD
- help us provide our customers with quality, cost-effective facilities

The E-Sourcing Pilot Program currently provides commercial-web-based technology and services to conduct e-sourcing and reverse auctions.

2. The contractor, FreeMarkets, Inc. of Pittsburgh, Pennsylvania, has conducted an initial Opportunity Assessment to identify projects that would support USACE's e-sourcing program strategy.

a. Program Strategy. The program is designed to apply e-sourcing to a variety of contracting strategies and minimize risk by choosing projects that have the highest probability of success. It is intended that each division conduct at least one FullSource bid. The FullSource bid should be the first e-sourcing project so that contracting personnel gain additional expertise by working with FreeMarkets professionals and are then able to apply this knowledge to their own QuickSource projects. The current program allows for 12 FullSource projects and an unlimited number of QuickSource events.

b. Opportunity Assessment. FreeMarkets, Inc. reviewed over 300 currently advertised projects across the Corps and selected 41 solid opportunities. Of those, eleven were recommended in support of USACE's e-sourcing strategy.

c. District Projects. The potential e-sourcing projects within your district are identified below. Consider using the resources within this program for your projects.

SUBJECT: USACE E-Sourcing Pilot Program (Continued)

Type	Solicitation Number	Title	Location	Issue Date	Closing Date	Range Top
Service&Supply	DACW21-03-Q-0015	Supply 8,000 tons of Liquid Oxygen	Richard B. Russell Dam and Lake Project Office, Elberton, GA	3/12/2003	3/25/2003	
Const-RFP	DACA21-03-R-0021	POL Storage Complex	Pope Air Force Base, North Carolina	3/24/2003	4/24/2003	\$25,000,000
Const-RFP	DACA21-03-R-0024	SOF Weapons Training Facility	Fort Bragg, North Carolina	2/13/2003	3/18/2003	\$10,000,000
Const-RFP	DACA21-02-R-0047	16th MP Barracks Complex - PHASE II	Fort Bragg, North Carolina	1/10/2003	3/20/2003	\$60,000,000
Const-RFP	DACA21-03-R-0019	Two Phase Design Build Construct 128 Person Dormitory	Pope Air Force Base, North Carolina	11/25/2002	3/24/2003	\$10,000,000
Const-RFP	DACA21-03-R-0022	Urban Assault Complex	Fort Benning, Georgia	2/13/2003	3/24/2003	\$5,000,000
Const-RFP	DACA21-03-R-0036	Separate Battalions Barracks Complex, Phases III/IV	Ft. Bragg, NC	3/14/2003	4/14/2003	\$100,000,000
Const-RFP	DACA21-03-R-0032	AT/FP Access Control Points	Fort Benning, Georgia	3/21/2003	4/21/2003	\$10,000,000
Const-RFP	DACA21-03-R-0011	SOF Resistance Training Facility	Fort Bragg, North Carolina	TBD		\$5,000,000

3. FullSource is a full-service solution involving both software and services where FreeMarkets' professionals work directly with USACE contracting personnel. FreeMarkets level of involvement is dictated by the USACE contracting team and varies by project. Typical activities and timing is listed below.

Event	Typical	Compressed
Project Id / Validation	D-60	D-16
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Award Contract	D	D

*Note: The event "Award Contract" is only provided as a reference point. USACE personnel evaluate proposals and make all award decisions.

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Albert J. Castaldo
LTC,
Deputy PARC

Appendix G

Information Briefing Log

No.	Date	Time	Division	Location
1	13-Nov	9:00	Southwestern	Fort Worth, TX
2	20-Nov	9:00	South Atlantic	Jacksonville, FL 32232-0019
3	21-Nov	13:00	Centers & Labs	Huntsville, AL
4	25-Nov	1:00	Northwestern	Omaha, NE 68102-1618
5	4-Dec	9:00	Small Business Conf	Washington, DC
6	11-Dec	9:00	Mississippi Valley	Vicksburg, MS
7	11-Dec	9:00	North Atlantic	Philadelphia, PA 19107
8	12-Dec	1:00	South Pacific	Sacramento, CA
9	13-Dec	1:00	South Pacific	Los Angles, CA
10	13-Dec	9:00	USACE HQ	Washington, DC
11	17-Dec	13:00	Great Lakes	Cincinnati, OH 45215
12	14-Feb	13:00	Pacific Ocean	Fort Shafter, HI
13	21-Feb	10:00	South Pacific	Los Angles, CA
14	19-Mar	1:30	South Atlantic	Savannah, GA 31401
15	20-Mar	1:00	South Atlantic	Savannah, GA 31401
16	25-Mar	9:00	USACE HQ	Washington, DC
17	2-Apr	1:00	South Atlantic	Savannah, GA 31401
18	10-Apr	9:00	Southwestern	Galveston, TX
19	15-Apr	8:00	South Pacific	Los Angles, CA
20	16-Apr	9:00	South Pacific	Los Angles, CA
21	17-Apr	1:00	USACE HQ	Washington, DC
22	7-May	11:00	North Atlantic	Washington, DC
23	7-May	3:30	IMA / ACA	Falls Church, VA
24	9-May	10:00	North Atlantic	Washington, DC
25	20-May	1:00	Great Lakes	Detroit, MI
26	21-May	1:00	Mississippi Valley	St Paul, MN
27	28-May	1:00	Northwestern	Kansas City, MO
28	29-May	1:00	Northwestern	Seattle, WA
29	10-Jun	2:00	Southwestern	Little Rock, AR
30	19-Jun	1:00	Transatlantic	Winchester, VA

APPENDIX H



**US Army Corps
of Engineers®**

Enterprise Sourcing Guide

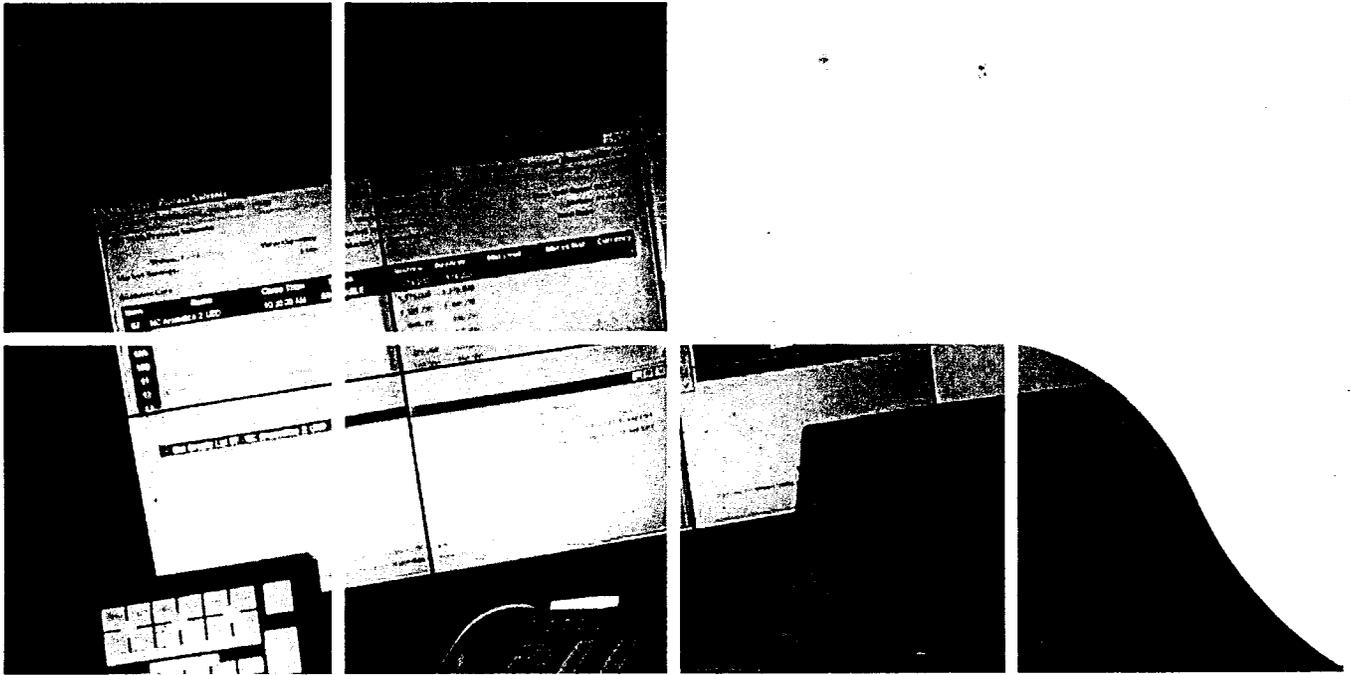


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Enterprise Sourcing Guide Overview

Introduction

The Army Corps of Engineers is currently conducting a pilot program to promote and test E-Sourcing to include reverse auctions. E-Sourcing (Enterprise Sourcing) is defined as the seamless integration of technology, people, processes and information across an organization to drive improved sourcing operational performance. This document has been developed to establish Standard Operating Procedures (SOPs) around the use of this new sourcing tool and will continue to evolve with greater exposure and usage throughout the organization. Send recommended changes and suggested best practices to Roger.L.Adams@HQ02.USACE.ARMY.MIL.

Enterprise Sourcing Tools and Solutions

USACE has contracted with FreeMarkets, Inc. (Order # DACA72-02-F-0055 issued by the Humphreys Engineer Support Center) to provide both the software and services required for E-Sourcing. The FreeMarkets' solutions included in this contract are FreeMarkets FS (FullSource) and FreeMarkets QS (QuickSource).

FreeMarkets FS solution is a combination of sourcing technology, market operations and integrated services that allows customers to draw on trained personnel, cutting-edge software, and deep sourcing expertise to execute high-value sourcing projects. With this solution, FreeMarkets sourcing professionals work with the contracting team throughout the life of the project.

FreeMarkets QS solution is a comprehensive, full-featured negotiation platform that allows sourcing professionals to more fully automate the process of structuring and executing effective online markets. This solution is self-service whereby contracting personnel access a web-based software application to create and manage projects.

Sourcing Process and Execution

1. General Guidelines

- A. E-Sourcing may be used in lieu of the sealed bid/bid opening process. **ANY** item that can be procured using a Firm-Fixed Price, Sealed Bid instrument can be procured using E-Sourcing. This includes Information Technology (IT) equipment and services, building materials, commercial goods and services and other services (such as construction and river dredging) procured on a Firm-Fixed Price, Sealed Bid basis. The use of E-Sourcing does not preclude pre-award surveys or any other efforts by the Army to insure successful completion of the contract. The key to a successful E-Sourcing project

is preplanning and the commitment to procure items that have been traditionally procured using Firm-Fixed Price, Sealed Bid techniques.

- B. The process can be used with IFB's, RFQ's and Commercial Items buys.
- C. Types of buys that are applicable:
 - 1. FAR Part 8, Required Sources of Supplies and Services, UNICORN/NISH.
 - 2. FAR Part 12, Acquisition of Commercial Items.
 - 3. FAR Part 13, Simplified Acquisition Procedures.
 - 4. FAR Part 14, Sealed Bidding.
- D. Preparation of the Small Business Coordination Record, DD 2579, to determine the method of advertisement; 8(a), SBSA, Unrestricted, is still required.
- E. Unless procured using Simplified Acquisition Procedures, a synopsis through FedBizOpps is still prepared and timeframes are no different than normal procedures; i.e., 15 days to appear, 30 days on the street.
- F. Issue solicitation using current procedures and include language in your solicitation regarding your intent to use E-Sourcing procedures to solicit bids.
- G. Award in accordance with normal award procedures.

2. *FreeMarkets QS Users Guide (see Appendix A)*

3. *FreeMarkets QS Quick Reference Guide (see Appendix B – TBP)*

4. *FreeMarkets FS Guidelines (see Appendix C - TBP)*

Appendix A - FreeMarkets QS Users Guide

Accessing FreeMarkets QS

To get started, go to www.myquicksources.com/usace and log in. From the home page, 1) select the Create Bids tab, 2) click Build in the navigation bar and 3) select Build and Auction from the drop-down box. Then select the method to build the auction. Once the selection is made, the auction wizard will begin the seven-step process.

Types of E-Sourcing Projects

Request for Information (RFI): vendors view and electronically submit responses to a questionnaire for the user to evaluate and score.

Request for Proposal (RFP): a non-interactive negotiation format where vendors submit a single online bid.

Auction (includes *Reverse Auction*): a dynamic, online bidding session allowing vendors to submit bids, receive feedback, and adjust their bids accordingly.

Preparing to Create a QuickSource Auction

Before entering QuickSource, it is recommended that you gather and prepare the following information. Once the following items have been completed, it will be easy to create your auction in QuickSource.

- **Identify Auction Scope-** Determine which parts or services will be included in the auction.
- **Determine Strategy, Auction Format and Rules-** Develop a sourcing strategy including the auction format (standard downward auction, rank-only, transformation, etc.).
- **Gather Data -** Gather and review all data, drawings, and specs for the items to be included in the auction. Information to consider include solicitation specifications, estimated annual usage, pricing information, quality requirements etc.
- **Identify Vendors-** Develop a list of potential vendors to invite to the auction. Resources for identifying vendors could include, incumbent vendors, known vendors, other USACE business unit vendors and traditional vendor lists.
- **Add Vendors to QuickSource-** Confirm or add all of the identified vendors (and contact information) in the QuickSource application. Make sure the appropriate contact is included in QS. If the vendor company exists in QS, verify or add your contact under the vendor company.
- **Determine Lotting Strategy-** Review all of the spend information and finalize a lotting strategy. Lotting strategies could include, lotting by delivery location, end use or application, incumbent vendor, engineering similarities or differences, vendor capabilities. It is important to balance your sourcing goals while maximizing vendor's participation and competition..

- **Create Line Item Details or Cost Breakdowns-** Provide a detailed list of parts by lot. You will need to provide this information at the lot level so vendors fully understand all of the parts and requirements in each lot.

Creating a QuickSource Auction

QuickSource includes an auction wizard that will walk you through a seven-step process to create your auction. The steps include:

1. **Specify Bid Details-** auction title & description, format, date and times, and rules
2. **Define General Commercial Terms-** contract duration, payment terms, etc.
3. **Add Lots and Documents-** lot titles and descriptions, quantities, pricing, documents
4. **Invite Vendors-** searching for and selecting vendors
5. **Review the Bid-** review all components of the auction in detail for strategy, errors, and omissions. Contact the E-Sourcing Support Desk (ESSD) at 1-877-687-2320.
6. **Translate the Bid-** (optional) specify any additional languages that will be required
7. **Publish the RFQ-** automatic email is generated and forwarded to the selected vendors inviting them to participate in the auction

USACE Bid Parameters

Auction Title – Apply the following naming convention: “Division name, Commodity name, Bid # in commodity” (i.e. North Atlantic Dredging 21).

End Date and Time – Allow 30 minutes between start and end time of the first lot. After the first lot ends, remaining lots are automatically scheduled to close in 10-minute intervals.

Extended Bidding – positions that trigger extended bidding are at the user’s discretion. For timing, select 2-2 such that designated bids submitted 2 minutes before the closing of the lot extend the closing time of that lot by 2 minutes.

Tie Bids, Bid Decrement, and Vendor Feedback – are at user discretion.

Percentage Bid Decrement – when using this format the percentage should be chosen based on the bid value of a lot. As a general rule of thumb use 1.0% < \$150,000; 0.5% > \$150,000; 0.25% > \$500,000.

Starting Gate – Enable a starting gate for each lot to prevent vendors who do not place a bid from receiving unauthorized market feedback.

Solicitation Information

- A. Information to include in Synopsis. Post solicitation on your homepage. Type “E-Sourcing Procedures” before the title of the requirement. In the detailed synopsis, note after the description: “The following requirement will be issued using E-Sourcing Procedures. All interested vendors must contact the designated POC and furnish the required information as stated in the solicitation for usernames and passwords by the designated date in order to access this project in USACE’s E-Sourcing web site. Vendor training will be provided.”

Upon receipt of vendor information, the buyer must add/invite the vendor as outlined above.

B. Sample Solicitation Verbiage

Notes to Offerors:

1. E-Sourcing Instructions.

During the reverse auction, offerors will submit prices on a lump sum basis. After the auction closes on Insert date of closing, the apparent winner will submit their completed offer to either of the buyers listed in block 7.a. on the Standard Form 1449. As part of the completed offer, the offeror shall include the signed SF 1449, bid schedule breakout and representations and certifications. After all line items are added together, the grand total on the bid schedule shall correspond with the winner's lump sum figure that was bid during the reverse auction.

All interested vendors approved by the Contracting Officer will be provided access to USACE's Reverse Auction website. Please contact (Insert KO or KS Name) at (Insert Telephone #) to request a username and password no later than (Insert date - should be 2-3 days prior to date of closing). The following information will be required with your request: First and Last Name, Company Name, Mailing Address, Phone Number, Email Address, and Time Zone (EST, CST...). All approved vendors will be provided their usernames and passwords along with a date/time for a brief training session. This information will be provided via email.

Electronic offers shall be submitted by offerors during the reverse auction period. Once offerors have logged onto the website listed above, you will click on "[Click here to continue](#)". You will then see a block entitled "My Invitations". Under "Offering Name", you'll click on the one named "(Insert Title of your Auction)". If an offer is submitted within the last four minutes (as indicated by the web server count down clock), the time period shall be extended for an additional five-minute period beyond the original stop time. There will be no limits on the number of extensions in each reverse auction; the market place will be the determining factor in closing the reverse auction. When no offers are submitted during the last four minutes of the original period or the extension period, the auction will close. An offer during the reverse auction must differ from the market-leading offer by at least the decrement identified on the auction detail page located on the website shown above.

Submission of an offer during the reverse auction will be considered consent by the offeror to participate in the reverse auction and to reveal their prices in anonymity during the reverse auction. The Contracting Officer reserves the right to suspend or cancel the reverse auction at any time. By participating in the reverse auction, offerors certify the only disclosure by the offeror of its prices to any other offeror will be during the reverse auction.

2. The opening price for this procurement is (insert amount, e.g. \$460,000.00) and the bid decrement is (Insert amount, e.g. \$5,000.00).

3. Basis for Award.

At the conclusion of the reverse auction, the Government intends to make award to the lowest priced, responsible offeror. The successful offeror must propose on all items identified in the requirement to be eligible for award. If it is not in the best interest of the Government, the Contracting Officer reserves the right to make no award under this procedure. After conclusion of the reverse auction, the Contracting Officer will contact the apparent successful offeror for execution of the award document.

Vendor Management

1. Upon receipt of vendor information, invite them to the event by editing the Supplier List and adding the vendor's company/contact information. Newly invited vendors automatically receive e-mail notifications containing the FreeMarkets QS address and temporary logon information.
2. Download, save, and send the online **Supplier Tutorial** to vendors. The tutorial provides a general overview of FreeMarkets QS and explains how vendors must submit bids online.
3. Direct vendors to use the **Message Center** to ask questions. Reply to vendors via the Message Center. Using this method, the same information will be provided to all participants and FreeMarkets QS will maintain records of the communication for future reference.
4. For FreeMarkets QS technical questions, refer vendors to the FreeMarkets Help Desk 1 877 687 2320.

Auction Execution

1. Be available to answer questions at least 30 minutes prior to the auction and throughout the event.
2. Have the following information available during the auction day:
3. A copy of the solicitation to be able to answer last-minute questions
4. A bidder list with contact names and phone numbers should a vendor need to be contacted during the event
5. A copy of the Market Rules to ensure they are being followed
6. FreeMarkets QS key contact information
7. Monitor auction activity while the auction is in progress
8. Allow vendors 24-48 hours, depending upon the complexity of the Cost Breakdown, to submit the Cost Breakdown and DA Form xxxx detailing the line item pricing which supports their best and final bid. (Select vendors or require all to submit?)
9. Submit QS Post Bid Review Form (TBP) to stikalsky@freemarkets.com for comments regarding the auction, i.e., vendor comments, buyer comments and lessons learned.

Market Rules

(pg 106)

Buyers Agree to:

- Award business to vendors who submit online quotes. No offline quotes will be accepted.
- ...

Suppliers Agree to:

- Not submit bids offline
- Bid on entire lots as outline in the auction posting details
- Submit bids as legally binding quotations
- Acknowledge that the lowest bidder does not automatically win the business

Award Decisions

Contracting personnel must determine and clearly identify in the solicitation if the contract will be awarded on a Best Value or Low Bid basis. Furthermore, multiple awards can be made within one E-Sourcing project. This is accomplished through lotting as discussed in the lotting strategy section of this document. A **lot** is a grouping of goods or services. Vendors are awarded contracts on a lot level basis.

① A Note About QS Technical Support

FreeMarkets QS Technical Support services include:

- Site Administration - technical and administrative services to support both contracting personnel and vendors including managing and administering user information and passwords and responding to buyer and supplier questions.
- Auction Administration – assistance in monitoring and managing all online negotiations including removing bids, pausing/restarting markets, removing/ reinstating vendors, and performing regular and emergency surrogate bidding

Vendor Training and Adoption

USACE contracting personnel are responsible for preparing vendors for bidding in QuickSource markets. To assist in this effort, there is a tutorial available on the USACE QuickSource site. Vendors gain access to the tutorial once they have been invited to participate in your QuickSource market. Vendors can also schedule training through the FreeMarkets QS help desk at (877) 687-2320.

We also encourage you to take the time to speak with vendors to ensure that they are prepared to bid. Also, if you identify a need for surrogate bidding, please call (877) 687-2320 to make arrangements.

① A Note About Vendor Management

Consider the following practice when adding vendors to your event:

1. Upon receipt of vendor information, invite them to the event by editing the Supplier List and adding the vendor's company/contact information. Newly invited vendors automatically receive e-mail notifications containing the FreeMarkets QS address and temporary logon information.
2. Download, save, and send the online Supplier Tutorial to vendors. The tutorial provides a general overview of FreeMarkets QS and explains how vendors must submit bids online.
3. Direct vendors to use the Message Center to ask questions. Reply to vendors via the Message Center. Using this method, the same information will be provided to all participants and FreeMarkets QS will maintain records of the communication for future reference.
4. For FreeMarkets QS technical questions, refer vendors to the FreeMarkets Help Desk 1 877 687 2320.

Your FreeMarkets Program Management Team

Scott Tikalsky	stikalsky@freemarkets.com	(412) 297-7868
Curt Topper	ctopper@freemarkets.com	(412) 297-7459
Tim Jackovic	tjackovic@freemarkets.com	(412) 297-8582

Common Questions and Answers

- Question** How do contracting personnel obtain a user id and password to access the site?
Answer Contact your division chief or designated E-Sourcing representative.
- Question** If I start, but don't finish, building an auction, do I need to start over the next time I log back in?
Answer No, you can return to the originally created auction by selecting Continue Building Unpublished Auction within the Build Auction tab.
- Question** What do I do if my division or location information is not already on the site?
Answer Please send an e-mail with the appropriate information to your QuickSource support team at usace@myquicksource.com

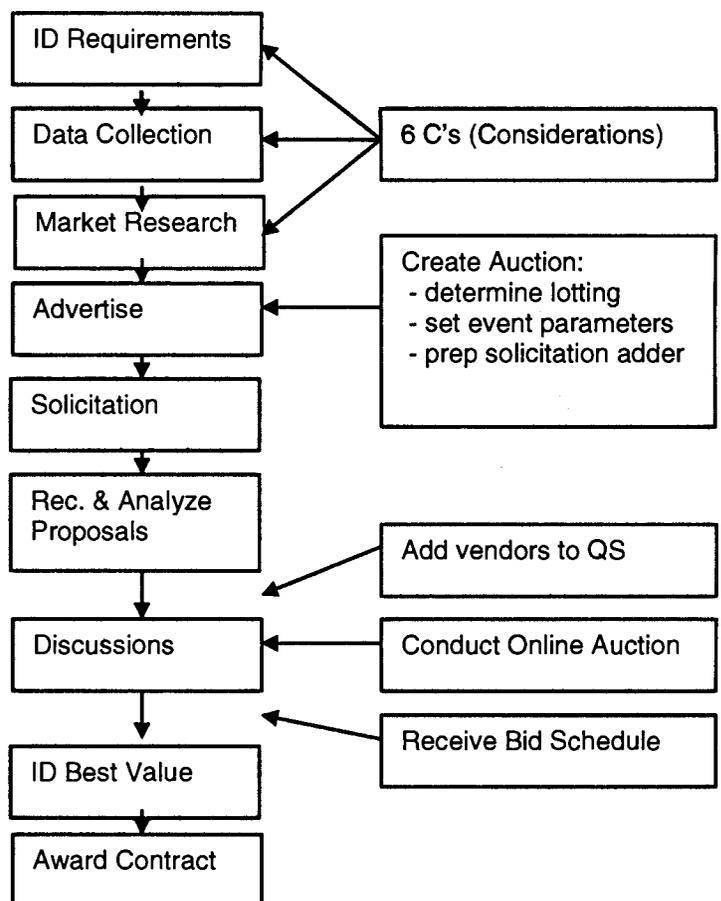
① A Note About Additional Support Resources

Although QuickSource training should arm you with enough knowledge to build and manage an online auction, you may still have questions as you begin navigating the site. If so, there are four resources available to help:

- The QuickSource manual distributed during training
- Your QuickSource support team at FreeMarkets – available by dialing (877) 687-2320
- The online Buyer Tutorial available on the USACE QuickSource site. The link is found in the upper right hand corner of the main page
- The online Help files which are also found in the upper right hand corner of the main page

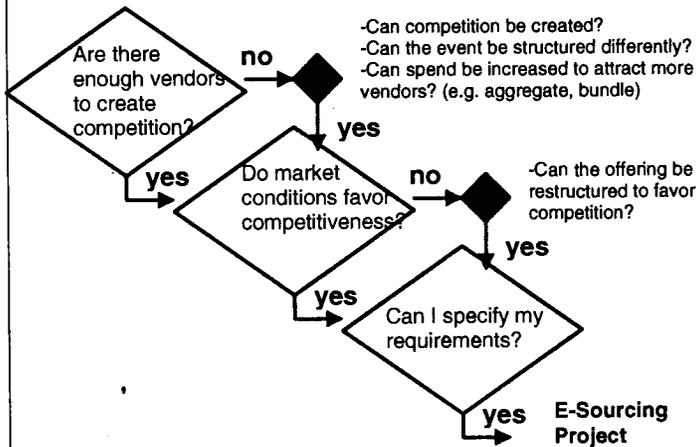
Sourcing Process

E-Sourcing



Identifying QS Projects – Six Considerations	
Contractual Availability	Is the item available to bid out?
Commercially Attractive	Would vendors be interested in bidding for this business?
Competitive Supply Base	How many vendors can provide this item, and how competitive are they?
Clearly Defined Requirements	Can you clearly define the requirements to allow vendors to compete?
Compressible Margin	Can the margin be compressed?
Commitment	Do you have project team commitment?

① “Go To Market” Strategy



Preparing to Create Your QuickSource Auction

Before entering QuickSource, it is recommended that you gather and prepare the following information. Once the following items have been completed, it will be easy to create your auction in QuickSource.

- **Identify Auction Scope-** Determine which parts or services will be included in the auction.
- **Determine Strategy, Auction Format and Rules-** Develop a sourcing strategy including the auction format (standard downward auction, rank-only, transformation, etc.).
- **Gather Data and Drawings-** Gather and review all drawings, sub-drawings, and specs to be included in the auction. Be sure the information includes estimated annual usage and pricing information.
- **Gather Additional Documents-** Gather any additional documents that will be included in the auction. Documents could include the solicitation, quality requirements, delivery specs and others.
- **Identify Suppliers-** Finalize a list of vendors to invite to the auction. Resources for identifying vendors could include, current vendors, known vendors, other USACE division / district vendors, and traditional supplier lists (Hoovers, D&B, etc.).
- **Add Suppliers to QuickSource-** Confirm or add all of the identified vendors (and contact information) in the QuickSource application. Make sure the appropriate contact is included in QS. If the supplier company exists in QS, verify or add your contact under the supplier company.
- **Determine Lotting Strategy-** Review all of the spend information and finalize a lotting strategy. Lotting strategies could include, lotting by delivery location, end use or application, engineering similarities or differences, supplier capabilities. It is important to balance your sourcing goals while maximizing supplier's participation and competition.
- **Create Line Item Details or Cost Breakdowns-** Provide a detailed list of items by lot. You will need to provide this information-at the lot level so vendors fully understand all of the items and requirements in each lot.

① Getting Started – Logging into FreeMarkets QS

To get started, go to www.myquicksource.com/USACE and log in. From the home page, 1) select the Create Bids tab, 2) click Build in the navigation bar and 3) select Build and Auction from the drop-down box. You will then select how you want to build the auction. Once you've made your selection, our auction wizard will walk you through the seven-step process.

Creating Your QS Auction using the Seven-Step Process

QuickSource includes an auction wizard that will walk you through a seven-step process to create your auction. The steps include:

1. **Specify Bid Details-** auction title & description, format, date and times, and rules
2. **Define General Commercial Terms-** contract duration, payment terms, etc.
3. **Add Lots and Documents-** lot titles and descriptions, quantities, pricing, documents
4. **Invite Suppliers-** searching for and selecting vendors
5. **Review the Bid-** review all components of the auction in detail for strategy, errors, and omissions
6. **Translate the Bid-** specify any additional languages that will be required
7. **Publish the RFQ-** automatic email is generated and forwarded to the selected vendors inviting them to participate in the auction

① How to Name Your QuickSource Events

Consider using the following naming convention when constructing your online markets:

"Division name, Commodity Name, Bid # in Commodity"

Example: North Atlantic Dredging 21

QuickSource Support Contact Information

1-877-687-2320

QS Technical Support: Site and Auction Administration

E-Mail: usace@myquicksource.com

Hours: Monday, 8:00 AM through Friday 8:00 PM (US Eastern time). Please provide 5-10 days advance notice for auction support

E-Sourcing Support Desk: Project Review and Guidance

E-Mail: Sourcing_support@freemarkets.com

Hours: Monday, 8:00 AM through Friday 5:00 PM

① A Note About FreeMarkets E-Sourcing Support Desk

FreeMarkets ESSD services include:

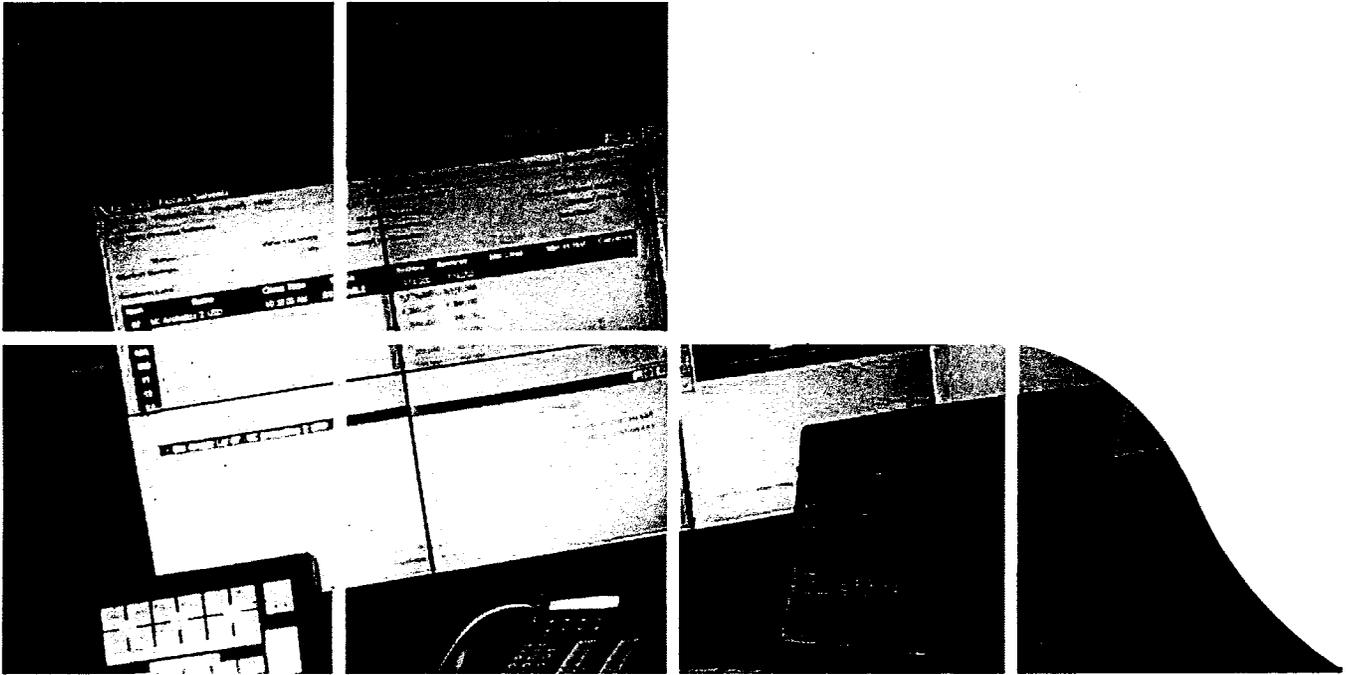
- Project Review - Auction / Auction bidding structure review and RFx review
- E-Sourcing Guidance - choosing appropriate QuickSource Projects, bidding formats and parameters, overall project and lotting strategies, supply base management, timeline management, and general e-sourcing best practices

Appendix J



US Army Corps
of Engineers®

FullSource Guide – US Army Corps of Engineers



Scott Tikalsky
Program Manager
FreeMarkets, Inc.
March 2003

 **FreeMarkets.**
Better business™

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1. Introduction

As the Project Management Business Process Initiative points out, times have changed. We have evolved into the Age of Information and must adapt to apply current technology and modern business practices to our processes. Hence, the Corps has undertaken this initiative. This initiative supports the Corps strategic vision of process improvement and the development of a learning organization.

The E-Sourcing Pilot Program will allow contracting and the Corps to conduct business in a more transparent, effective, and efficient manner.

- Transparent – e-sourcing provides visibility to the sourcing process and results in true market pricing.
- Effective – the technology provides a fair and unbiased environment to conduct discussions / negotiations and determine the best price for each offer.
- Efficient – true market pricing is typically achieved within a one hour time period.

Furthermore, the E-Sourcing Pilot Program provides contracting personnel with the ability to collaborate, share knowledge, and learn about modern sourcing best practices.

All of this will be accomplished while we continue to serve our customers. In fact, contracting will be better positioned to support project managers and their objective to deliver projects on time and within budget.

This guide will help you understand the E-Sourcing process and enable you to apply it to your contracting projects.

2. Introduction to Online Markets

2.1 FullSource Overview

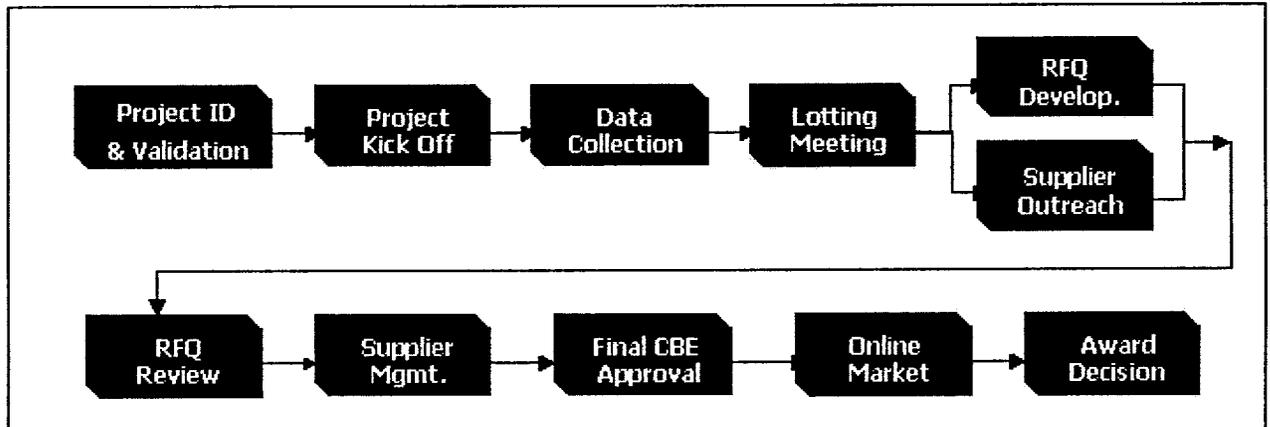
In FreeMarkets' online auctions, multiple offerors from around the country submit bids for a solicitation in a real-time, interactive competition where they view competing bids within seconds of their submission. These competing offerors can then respond in real-time by placing a lower, more competitive bid. Every online market is a private, secure, controlled event in which the contracting person selects and invites qualified offerors to participate. Once the online market is complete, the contracting person reserves the right to make award decisions to any offeror that has competed in the event. Understanding that contracting persons' decisions to award to offerors are not solely based on price, FreeMarkets does not require the contracting person to award to the lowest bidder in a market. These ultimate award decisions will be made by the contracting person based on several factors such as: offeror's capacity, the offeror's current quality systems, the contracting person's comfort with awarding business to a certain offeror, price and various other variables.

The FreeMarkets Global Sourcing Market includes:

- Market Operations: Market Operations Centers in Pittsburgh, Brussels and Singapore to host and monitor events to ensure fair and secure auctions
- Market Making Services: Contracting person assistance with sourcing processes to ensure better decisions and develop world-class processes

- Marketplace Technology: Leading online bidding technologies and sourcing applications for maximizing market efficiency and purchasing productivity
- Supply Intelligence: Detailed global supplier information provides access to the best global suppliers at the best price

2.3 Process Description



FreeMarkets employs a formal, repeatable multi-step process every time an online market is made. The major steps are illustrated above and described below:

Project Identification

Project Identification, the first step in the market making process, is the act of identifying potential projects for online sourcing. Participating in this process are your FreeMarkets Program Manager and anyone from your organization who has commodity responsibility. This step can occur informally on an ad hoc basis or formally through an Opportunity Assessment. The purpose is to determine appropriate categories and specific products and services for online bidding.

Successful online sourcing projects share characteristics that include.

- Contractually available
- Clearly defined requirements
- Competitive supply base
- Enough spend to attract bidders
- Compressible margin
- Accuracy and completeness of data
- Sponsor commitment to online process

FreeMarkets will support you during this process by providing category recommendations, facilitating brainstorming sessions and employing such tools as the Opportunity Assessment and the Enterprise Sourcing Selection Guide. At this stage, roles and responsibilities for each party include:

FreeMarkets Roles and Responsibilities

- Explain online market making process to new participants
- Facilitate brainstorming sessions

- Provide category recommendations and make market assessments

Your Roles and Responsibilities

- Gather approximate spend data
- Gather incumbent offeror information
- Identify internal stakeholders (participants in the project) and goals for the project

The intended outcome of Project Identification is a broad list of potential product and service categories and approximate timeline for deeper, more detailed discussion of each.

***Scenario:** Your FreeMarkets Program Manager facilitates a day long Opportunity Assessment where many categories, including \$15 million in personal computers and computer peripherals are discussed. Your contracts expire this year and you identify this as a high priority project. In the comprehensive analysis submitted to you a few weeks after the work session, FreeMarkets confirms that personal computers and peripherals are good categories and recent events have yielded solid savings.*

Project Validation

Once potential projects are identified, a formal Project Validation will occur to assess the probability of success given more detailed project information. Participating in this step are your FreeMarkets Program Manager, a FreeMarkets Market Maker and your organization's project lead. The purpose is to make a Go/No Go decision and ensure the deployment of resources to manage and execute the project.

To successfully complete this stage, you'll need to provide FreeMarkets with the following information.

- Description and monetary volume of good or service up for bid
- Estimated number of unique part numbers along with estimated annual usage
- Number of incumbent offerors and length of time with them
- Number of participating divisions or plants
- Sourcing goals such as offeror consolidation or low cost sourcing region
- Impediments to implementation such as tooling or development partnerships

FreeMarkets will support you during this process by providing a Validation Request form. At this stage, roles and responsibilities for each party include:

FreeMarkets Roles and Responsibilities

- Jointly review spend data, commodity type, market conditions and availability of offerors and agree on suitability of a FullSource online market (Go/No Go decision)
- Assist in setting savings expectations
- Identify market making team and jointly schedule Kick Off Meeting
- Identify criteria for project success

Your Roles and Responsibilities

- Jointly review spend data, commodity type, market conditions and availability of offerors and agree on suitability of a FullSource online market (Go/No Go decision)
- Develop high level commodity strategy if strategy does not exist
- Identify potential limitations and constraints

The intended outcome of Project Validation is Go or No Go decision for the online sourcing project. Once a Go decision is made, FreeMarkets will assign a market making team and schedule a formal Kick Off Meeting.

Scenario: After further investigation into the \$15 million in personal computers, you learn that \$2 million is under contract for another 2 years and this is pulled out of the project.

The Kick Off Meeting

Shortly after your project has been validated, a Kick Off Meeting or conference call takes place. Participating in this meeting are your FreeMarkets Program Manager and Market Making Team and everyone from your organization who will be participating in the project - this may include plant managers, engineers and procurement staff. The purpose is to ensure participants have a common understanding of project goals, roles and responsibilities and timeline.

The Kick Off Meeting will consist of the following items.

- Identify project team members and responsibilities
- Review FreeMarkets market making process (depending on audience)
- Review of project scope, goals and objectives
- Review of award implementation strategy and issues
- Review of data collection and offeror outreach process
- Introduce the concepts of lotting and reserve and ceiling prices
- Review preliminary project timeline
- Establish team communication plan

At this stage, roles and responsibilities for each party include.

FreeMarkets Roles and Responsibilities

- Facilitate Kick Off Meeting
- Ensure team members understand the market making process
- Provide guidance on notifying incumbents including Managing Incumbent Offerors in Online Markets; a FreeMarkets White Paper
- Provide data collection templates, offeror contact data template and Sponsor Site RFQ Input Form
- Establish communication plan and develop escalation path
- Introduction to FreeMarkets Desktop

Your Roles and Responsibilities

- Ensure team participation at Kick Off Meeting
- Support established timeline
- Establish offeror outreach objectives and screening criteria (location, business size, quality system, capabilities, references, etc)

The intended outcome of the Kick Off Meeting is an actionable plan for executing the project according to the timeline and in accordance with your sourcing goals.

***Scenario:** During the Kick Off call, the team agrees to a 12-week project timeline with data collection due in two weeks. You decide that you want both original manufacturers and resellers who can provide leasing and maintenance services. The team sets up a weekly conference call for Wednesday mornings.*

Data Collection

Data Collection begins immediately following the Kick Off Meeting and is the process through which detailed information regarding your purchasing requirements, parts/service data and drawings are collected for development of the Request for Quotation (RFQ). Participating in this stage are your engineers who may be collecting and reviewing drawings and plant managers or procurement team who may be collecting incumbent offeror contact information and completing the RFQ Input Form. The FreeMarkets Market Making Team also plays a supporting role by answering questions and providing clarification as needed. The purpose is to gather all information necessary to create an RFQ that details your procurement needs and offeror requirements and provides offerors with the information they need to provide you with detailed cost information.

At this stage, roles and responsibilities for each party include:

FreeMarkets Roles and Responsibilities

- Support data gathering process by answering questions and providing clarification about templates and other issues
- Facilitate weekly conference calls to ensure compliance with timeline
- Receive, review and analyze data and provide inventory of collected versus missing data
- Submit the offeror outreach documents including the Opportunity Overview, Capability Profile and/or Project Survey to you for approval
- When ~90% of the information is collected, the Market Making Team will start the offeror outreach and start working on potential lotting proposals

Your Roles and Responsibilities

- According to the data collection plan, gather data, prints and specifications for the parts included in the project perimeter, and fill-in the FreeMarkets data collection templates
- Complete Sponsor Site RFQ Input Form for each participating location
- Gather information on incumbent and "A List" offerors
- Review and approve (or edit) the Opportunity Overview, Capability Profile and/or Project Survey

- Notify incumbents of the sourcing project and encourage them to participate
- Send data and information to the FreeMarkets Market Making Team

Once the event scope, objectives and expectations are established, data collection is at least 90% complete and each of the sites have completed the Sponsor Site RFQ Input Form, the Lotting Meeting is scheduled.

Scenario: During the process of completing the templates with the IT staff, one location learns that its current printer specifications are higher end and more expensive than its peer locations. After determining that it's not making good use of the additional features, the team decides to standardize its printer specifications with other locations.

Lotting Meeting

The Lotting Meeting marks the beginning of RFQ development and offeror research, outreach and pre-qualification. This meeting is the point at which a proposed lotting strategy, bid format and strategy and ceiling and reserve prices are introduced and an event date is established. Participating in this stage are your engineers, plant managers, procurement team and anyone else who may have participated in the data collection effort and will be responsible for implementing offeror changes if you do not award the business to your incumbent. The FreeMarkets Market Making Team plays a lead role by preparing the draft RFQ and lotting workshop documents and by facilitating the meeting. The purpose of the meeting is to review and confirm the RFQ details, offeror selection criteria and lotting strategy.

The Lotting Meeting will consist of the following items.

- Introduction to lotting principles
- Lotting work session
- Draft RFQ review
- Offeror review
- Implementation discussion

At this stage, roles and responsibilities for each party include:

FreeMarkets Roles and Responsibilities

- Prepare bid item documentation including the draft RFQ and identify additional information required
- Jointly agree on market making strategies including bid strategy, lot structure and reserve/ceiling price structure
- Jointly agree on remaining dates in the timeline

Your Roles and Responsibilities

- Review and agree on offeror contact strategies
- Jointly agree on market making strategies including bid strategy, lot structure and reserve/ceiling price structure
- Jointly agree on remaining dates in the timeline

The intended outcome of the meeting is a firm timeline for the remainder of the project, including a date for the market execution, and agreement around the actions necessary to produce the final version of the RFQ and supporting documents.

***Scenario:** In an attempt to gain greater leverage with offerors, three of the five facilities decide to lot their units together. The three agree to standardize their leasing and maintenance requirements. Although there are still a few open issues at the end of the day, including hard drive specifications for one facility and final internal approval of your Supply Contract, the team commits to finalizing these items before the next weekly conference call so the RFQ can be published to offerors on time.*

RFQ Development and Offeror Outreach

RFQ Development is the process of creating a customized RFQ that addresses all of your requirements for the sourcing project. This begins once most of your data has been delivered to the FreeMarkets Market Making Team, continues through the Lotting Meeting and completes once the RFQ is published to offerors. FreeMarkets is primarily responsible for this process drawing on the completed data collection templates and Sponsor Site RFQ Input Form with your team playing a supporting role in providing data clarifications.

The RFQ commonly consists of the following items.

- Bidding rules and procedures including the FreeMarkets Bidder Agreement
- Part/Reference description and material specifications
- Component quality requirements
- Commercial terms including logistics and account servicing requirements
- Contracting person-specific documents
- Quality systems expectations
- Value-added service requirements
- Online market structure (including lot structure and bidding format)
- Post bid requirements

Offeror Outreach is the process of identifying and engaging offerors who meet your selection criteria for this sourcing project. This process begins during the Kick Off Meeting when your offeror criteria are defined and continues through the Lotting Meeting and completes once the RFQ is published to offerors. You are responsible for identifying and communicating meaningful offeror criteria to FreeMarkets while the FreeMarkets team is responsible for searching for and identifying appropriate offerors based on your criteria. Consideration initially should be given to the following offeror characteristics:

- Size (including annual sales, customer and employee count)
- Manufacturing or servicing capabilities
- Geography (including warehousing locations)
- Quality system such as QS or ISO certification
- Customer references

At this stage, roles and responsibilities for each party include:

FreeMarkets Roles and Responsibilities

- Finalize bid item documentation including RFQ and supporting attachments
- Conduct search for new offerors according to your criteria and present the list of potential bid participants to you for approval

Your Roles and Responsibilities

- Confirm accuracy of data submitted to FreeMarkets and included in RFQ documents
- Approve or revise final list of offerors targeted for participation in this event

The intended outcome of this stage is an RFQ that details your procurement needs and offeror requirements and a list of potential offerors to bid on and possibly win this business.

Scenario: During a weekly conference call marking the end of RFQ Development and Offeror Outreach, the plant managers confirm that incumbent offerors have been contacted and invited to participate in this bid. You make a few suggestions and then approve the list of new computer and computer peripherals offerors.

RFQ Review and Release

RFQ Review and Release consists of a series of approvals by both the buying team and FreeMarkets to ensure that the RFQ is complete and accurate. This stage occurs once 100% of the data is complete, bid format and parameters including lotting, ceiling and reserve have been confirmed and final offeror selection has been approved.

Roles and responsibilities for each party include.

FreeMarkets Roles and Responsibilities

- Perform quality check of RFQ documents internally and distribute to you for approval
- Finalize remaining timeline including Competitive Bidding Event (CBE) date and time
- Jointly agree on offeror briefing strategies
- Publish RFQ documents to offerors once your final approval is received

Your Roles and Responsibilities

- Confirm accuracy of RFQ documents including historic prices and volumes
- Review, revise and approve lotting strategy and wording of RFQ documents
- Provide final approval to FreeMarkets to publish RFQ in a timely manner
- Finalize remaining timeline including CBE date and time
- Jointly agree on offeror briefing strategies

Scenario: Your RFQ worth approximately \$13 million in personal computers and computer peripherals is published to 15 offerors in North America, Europe and Asia. The CBE is in five weeks.

Offeror Management

Offeror Management is the active management of offerors to ensure maximum offeror participation in the market and begins as soon as the RFQ is published. FreeMarkets drives this stage but relies on your team to assist where necessary. The purpose of this effort is to ensure interested offerors are able to develop accurate quotes and are comfortable with the online bidding process.

Roles and responsibilities for each party include.

FreeMarkets Roles and Responsibilities

- Contact offerors to ensure receipt of RFQ, comprehension of RFQ terms and the online bidding process including Marketplace Rules
- Arrange software distribution, passwords and training as required for offerors
- Collect Bidder Agreements, Lot Interest and any other required bid documentation as outlined in the RFQ
- Monitor offeror reactions to key areas of the RFQ such as ceiling or payment terms
- Collect RFQ Question and Answer forms from offerors, respond to queries where appropriate, forward queries to your team where appropriate and publish RFQ Updates as necessary
- Provide offeror activity reports during weekly conference calls

Your Roles and Responsibilities

- Ensure consistent message with offerors
- Respond to FreeMarkets requests for RFQ clarification as required
- Monitor offeror activity and make incumbent calls where necessary
- Direct offeror queries to FreeMarkets

Scenario: Three weeks after the RFQ was published, 10 offerors are still engaged. The FreeMarkets team continues to be unsuccessful in reaching one of your incumbent offerors so one of the facility managers agrees to call him. Offerors have asked a few questions about the RFQ. The team agrees

that this is information all offerors need to accurately prepare quotes so you agree to provide an answer to the FreeMarkets team who will then publish an RFQ Update.

Final CBE Approval

Final CBE Approval is the final Go/No Go decision before the online market opens and occurs 3-5 days before the scheduled CBE date. Participating in this step is your FreeMarkets Market Making team, your FreeMarkets Program Manager and key decision makers on your team. The purpose is to evaluate whether or not the bidding event has a high probability of success given the initial project goals and any market changes occurring in the meantime.

Roles and responsibilities for each party include.

FreeMarkets Roles and Responsibilities

- Jointly ensure all offeror feedback and questions have been addressed
- Jointly evaluate lot coverage and determine if any lots should be pulled
- Ensure all offerors have submitted necessary documents including Bidder Agreements and have been trained on Bidware
- Coordinate surrogate bidders where necessary
- Build and test bidding event in BidWare

Your Roles and Responsibilities

- Jointly ensure that all offeror feedback and questions have been addressed
- Jointly evaluate lot coverage and determine if any lots should be pulled
- Reconfirm historic, ceiling and reserve prices
- Make Go/No Go decision
- Confirm plans for hosting and viewing the online market

Scenario: The RFQ Update was well received and 6 offerors have submitted their Bidder Agreements and lot interest. Lot coverage ranges from three for the printers lot for the North American facilities to five for the laptops lot. All incumbents but one are participating and you decide to proceed with the market as scheduled.

Online Market

The online market is the competitive bidding event and is driven largely by FreeMarkets. Your Program Manager can travel to your location for the event, host your team at one of our offices or arrange for each member of your team to watch the event from his or her desktop computer. Your Market Making Team will be in the Event Operations Center assisting in the management of the market and enforcement of Marketplace Rules.

Roles and responsibilities during the event include.

Offeror Roles and Responsibilities

- Log in to the online market once published to save bids
- -On bid day, log in to the online market at least 15 minutes prior to opening
- Participate in online market according to Marketplace Rules
- Contact FreeMarkets if experiencing difficulties

FreeMarkets Roles and Responsibilities

- Publish the market online approximately 12 hours prior to the scheduled open
- Ensure that offerors are connected and bidding in accordance with expectations
- Provide immediate resolution to offeror problems
- Enforce Marketplace Rules
- Pause bidding or re-open lots if offerors experience technical difficulty
- Communicate market activity such as the re-opening of lots to offerors
- Communicate unexpected activity to the Program Manager
- Surrogate bid for a offeror in an emergency
- Close lots when all bids have been received

***Scenario:** Because it was the team's first online market, the team decided to travel to FreeMarkets to watch the bidding. During Lot 2, one of the offerors lost his internet connection and the market was paused while the FreeMarkets Market Operations team tried to help him re-establish connection. Because he could not, FreeMarkets brought in an on-call team member to surrogate bid for him.*

Award Decision

Following the completion of the online market, your team identifies competitive offerors whom you would like to further qualify in order to make an award. This often happens within a day or two of the bid while the qualification process takes longer. You and your team drive the award decision with FreeMarkets assisting as necessary.

Roles and responsibilities during the event include.

FreeMarkets Roles and Responsibilities

- Collect and summarize cost breakdown information for those offerors identified by your team
- Provide you and your team with bidding reports
- Send thank-you notes and feedback forms to all participating offerors

Your Roles and Responsibilities

- Determine which offerors should submit cost breakdowns
- Evaluate bid results, cost breakdowns and the results of additional qualification as outlined in the RFQ and make selection

- Notify offerors of award status
 - Notify FreeMarkets of award decision
-

Scenario: *That afternoon, your team requested cost breakdowns from the three most competitive offerors in each lot. There was some overlap and it was a mix of resellers and manufacturers.*

FreeMarkets collected five of the six cost breakdowns within the first week and continued to follow up with the late offerors.

2.4 Contracting person Checklist

Please refer to the following checklist as you move through each stage of the market making process. This is designed to help you ensure you have adequately completed each stage while assisting you in preparation for the next.

Project Identification

- Gather approximate spend data
- Gather incumbent offeror information
- Identify internal stakeholders (who will participate in the project) and goals for the project
- Contact your FreeMarkets Program Manager to initiate project discussion

Project Validation

- Review spend data, commodity type, market conditions and availability of offerors and agree on suitability of a FullSource online market (Go/No Go decision) with FreeMarkets
- Develop high level commodity strategy if strategy does not exist
- Identify potential limitations and constraints

The Kick Off Meeting

- Ensure team participation at Kick Off Meeting
- Support established timeline
- Establish offeror outreach objectives and screening criteria (location, business size, quality system, capabilities, references, etc)

Data Collection

- According to the data collection plan, gather data, prints and specifications for the parts included in the project perimeter, and fill-in the FreeMarkets data collection templates
- Complete Sponsor Site-RFQ Input Form for each participating locations
- Gather information on incumbent and "A List" offerors
- Review and approve (or make edits to) the Opportunity Overview, Capability Profile and/or Project Survey
- Notify incumbents of sourcing project and encourage them to participate
- Send data and information to the FreeMarkets Market Making Team

Lotting Meeting

- Ensure team participation at Kick Off Meeting
- Review and agree on offeror contact strategies
- Jointly agree on market making strategies including bid strategy, lot structure and reserve/ceiling price structure
- Jointly agree on remaining timeline

RFQ Development and Offeror Outreach

- Approve or revise final list of offerors targeted for participation in this event
- Confirm accuracy of data submitted to FreeMarkets and included in RFQ documents

RFQ Review and Release

- Confirm accuracy of RFQ documents including historic prices and volumes
- Review, revise and approve lotting strategy and wording of RFQ documents
- Provide final approval to FreeMarkets to publish RFQ in a timely manner
- Finalize remaining timeline including CBE date and time
- Jointly agree on offeror briefing strategies

Offeror Management

- Ensure consistent message with offerors
- Respond to FreeMarkets requests for RFQ clarification as required
- Monitor offeror activity and make incumbent calls where necessary
- Direct offeror queries to FreeMarkets

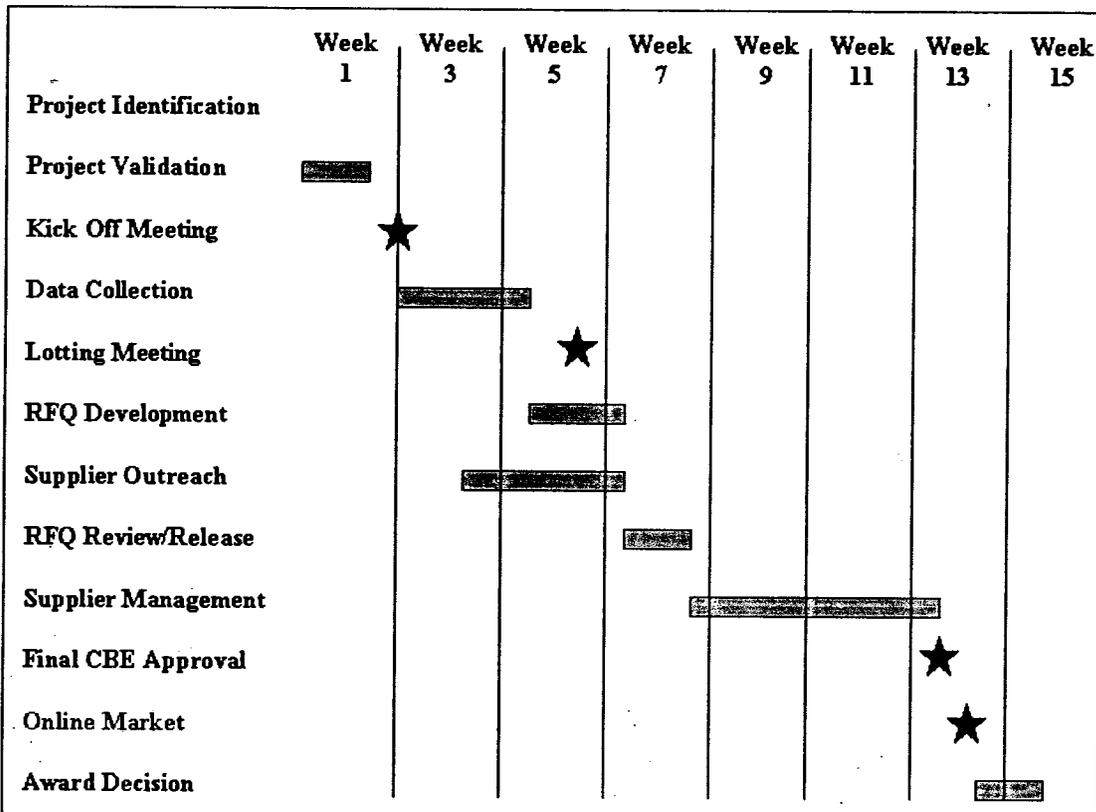
Final CBE Approval

- Jointly ensure all offeror feedback and questions have been addressed
- Jointly evaluate lot coverage and determine if any lots should be pulled
- Reconfirm historic, ceiling and reserve prices
- Make Go/No Go decision
- Confirm plans for hosting and viewing the online market

Award Decision

- Determine which offerors should submit cost breakdowns
- Evaluate bid results, cost breakdowns and the results of additional qualification as outlined in the RFQ and make selection
- Notify offerors of award status
- Notify FreeMarkets of award decision

2.5 Sample Project Timeline



Timelines vary according to project complexity but the above sample provides a good benchmark. As you can see, the two biggest drivers of the timeline – and causes of bid day delays – are Data Collection and Offeror Management. Other optional milestones not reflected here but that may add time to the overall project include Qualifying Rounds (Q-Rounds) and offeror site visits or pre-qualification.

When constructing your timeline, please keep the following in mind.

- Offerors often need at least four weeks to prepare quotes. This can double to eight weeks for markets with thousands of parts/references.
- Distributors will need more time than manufacturers to prepare quotes
- Holidays and vacation schedules vary by country so keep the location of offerors in mind
- Not enough time to prepare quotes will force offerors to bid on fewer lots than they might be able to otherwise and will result in lower competition and put less attractive lots at risk. On the reverse, the risk to a project that goes on for too long is attrition of offeror interest.

Conducts internal review of RFQ Draft	SOMM
Conducts review of RFQ Draft	Customer
Conducts Final Internal review of RFQ	SOMM
Reviews and approves the RFQ utilizing Contracting person RFQ Review form	Customer
Confirm RFQ publish date	SOMM
RFQ Publishing - final internal review	SOMM
Publish RFQ	SOMM
OFFEROR MANAGEMENT	
Approves/declines nominated offerors	Customer
Conduct offeror management calls collecting lot interest and scheduling training.	SUMM
RFQ UPDATE	
Communicate bidder questions to Customer, Sourcing and PM	SUMM
Determine whether an RFQ update is required	MM Team
Prepare an update to communicate answers to bidder questions	SOMM
Approves update	Customer
Publish update	SUMM
Contact all bidders to confirm receipt of an update	SUMM
QUALIFYING ROUND	
Conduct Qualifying Round as necessary	MM Team
BID PREPARATION	
Plan logistics for bid day	PM
Distribute pre-CBE checklists to offerors	SUMM
Contact all offerors to confirm receipt of checklist and review all points	SUMM
Ensures all appropriate customer representatives are	PM

educated and equipped on BidWare	
Communicate bid status to Customer and make final decision to pull lots offline	PM
Notifies SUMM of Bid Day phone numbers	PM
BID EXECUTION	
Conduct event communicating issues as appropriate to PM	SUMM
POST BID	
Email BidWare Reports to Customer	SOMM
Identifies Cost Breakdown requests	Customer
Send thank-you letters to all bidders	SUMM
Collects Cost breakdowns and distributes to customer	SUMM
Monitor the award decision process and sets up conference calls on award date	SOMM
Makes award decision and enters into FreeMarkets Desktop	Customer
Send emails informing bidders that an award decision has been made	SUMM

3. Guide to FreeMarkets Desktop

FreeMarkets Desktop will allow you to do the following online:



To Access a Project

1. Access www.freemarkets.com, and then in the upper-right corner click log on.
2. Type your user name and password, and then click Log On.
3. On the Enterprise Sourcing Projects tab, select your project number.

Review Opportunity Overview

1. Review the information on the **Opportunity Overview** page. (Recruit Offerors → Opportunity Overview).*
2. Approve or call your market maker with edits to the documents.

Review Request for Quotation

1. Access the **Documents** page. (*Create RFQ → Documents*)
2. Click the **View Documents** link, and then under **Select a document to view**, click the folders to display the file names.
3. Click the names of the files that you want to view.
4. Approve or call your market maker with edits to the documents.

Review Interested Offerors

1. Access the **Offeror List** page. (*Manage Offerors → Offeror List*)
2. Click each offeror's location name in the first column to review the business profile.
3. For each offeror, select **Approved** to approve or **Decline** to decline in the **Offeror Status** column.

Monitor Approved Offerors

1. Access the **Offeror List** page. (*Manage Offerors → Offeror List*)
2. Review offerors' information, such as bidder agreement (BA) acceptance, submitted lot interest, or FreeMarkets® BidWare® technology training status (TR).
3. Contact your Market Maker to add or remove columns on the **Offeror List** page.

View an Event

1. On the **Bidding Event** page, click **Enter Event**. (*Monitor Bidding → Bidding Event*)

View Post Bid Results

1. To view event results, select a bidding report on the **Bidding Reports** page (*Analyze Results→Bidding Reports*),
2. To request offeror cost breakdowns, on the **Assign Cost Breakdowns** page (*Analyze Results→Assign Cost Breakdowns*), select the **Req** check box for each appropriate lot and offeror.
3. To replay a previous event, on the **Event Replay** tab, click **Replay Event** for the appropriate event.

*When you see (*Create RFQ→Documents*), select the **Create RFQ** tab, and then click **Documents** on the solid navigation bar under that tab.

Call **1-877-303-3658** (domestic) or **001-412-434-5605** (international) for help from Monday at 1:00 A.M. to Friday at 8:00 P.M. (U.S. Eastern Time) or e-mail questions to help@freemarkets.com 24 hours a day.

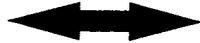
4. Online Market Rules

Adherence to a common set of Marketplace Rules helps to ensure execution of a fair online market. These rules are mutually beneficial for both contracting persons and offerors. FreeMarkets acts as a neutral third party, monitoring compliance and determining appropriate corrective action when necessary. Participating in a FreeMarkets FullSource online auction:

You Agree to

Offerors Agree to

Award only to offerors who bid online



Not submit bids offline

Only invite qualified offerors to bid



Bid as aggressively as they can

Award business in whole lots as described in the RFQ



Bid on entire lots as described in the RFQ

Award business at prices bid online



Submit all bids as legally binding quotations

Give low bidders a "fair look" to win the business



Accept that the low bidder does not automatically win – factors other than price apply

5. Common Issues in Online Markets

5.1 Addressing Tooling Needs

For product families with significant tooling costs, it is necessary to define a specific strategy for tooling.

Step 1: Define a payment schedule

The answer to the question of whether to amortize or not depends on your organization's internal policies, preferences and the cost of the tooling. The following table summarizes the implications of each option.

	One-time cost	Amortize
Implementation	Pay for tooling once	Amortize the cost of tooling over the production of the parts
Advantages	Tool ownership is clear	Contracting person avoids potentially large capital expenditures up front
Disadvantages	Contracting person must be able to make capital investment	Contracting person must keep track of amortization schedule – often the tooling cost is never removed from the piece price even after the cost of tooling has been paid
Bid Results	May not affect online results This payment schedule offers more options to the contracting person including bidding the tooling online or negotiation with the offeror	If the tooling price is too high, new offerors will not be competitive and the savings objectives may not be reached

Step 2: Determine whether to bid tooling online or offline

If tooling is being amortized, we recommend bidding it online as a component of the part price. The answer to the question of whether to bid the one-time cost for tooling online or offline depends on project objectives, implementation strategy and the urgency of the project timeline. The following table summarizes the implications of each option.

	Online	Offline
Implementation	Price cannot be negotiated after the online market	Price can be negotiated after the online market
Advantages	Can increase competition and savings if volume is significant	Less quoting time needed – allows offerors to concentrate effort on part quotes
Disadvantages	May increase time offerors need to prepare quotes.	Offerors may be less willing to bid competitively as they do not know their rank in terms of total cost

5.2 Choosing Pricing and Bidding Strategies

BidWare, FreeMarkets' FullSource software technology, can easily be customized to meet the sourcing goals of each bid. There are hundreds of possible combinations of bidding formats, display formats and other parameters available. Structuring the bid depends on your sourcing goals and market conditions. In addition to standard downward auctions, consider using other formats to meet your sourcing needs.

Pricing Strategies

Dynamic Pricing Format	Features	When to use
Upward auction	Allows bids in increasing increments	<ul style="list-style-type: none"> • Discounts off a standard price (hotels, airline seats, etc) • Asset and surplus inventory selling
Multi-Currency	Accommodates offerors bidding in different currencies through real-time currency converters	<ul style="list-style-type: none"> • International offeror base • Buying locations in different countries
Transformational	Equalizes bids placed by offerors with different material "grades" and volumes or other contracting person-assigned weighting	<ul style="list-style-type: none"> • Tooling: one-time buy versus piece price • Lease versus buy decisions (capital equipment, outsourcing, etc.) • Commodities with large shipping and delivery costs
Index	Bids are placed against an established index instead of in absolute value	<ul style="list-style-type: none"> • Indexed commodities (fuel, chemicals, metals, etc.)
Net Present Value	Equalizes bids placed for contracts with different structures (payments, timing, length) through real-time conversion of each bid to NPV	<ul style="list-style-type: none"> • Multi-year contracts • Contracts with annual price reductions
Rank Order	Bidders do not receive any pricing feedback, only their rank in the market	<ul style="list-style-type: none"> • Few qualified offerors: eliminates collusion opportunities • Prevent "sampling": non-competitive bidders do not know winning bid price
Next horse	Bidders only receive price information on the next better bidder	<ul style="list-style-type: none"> • Improves ranked bidding • Sensitivity of information

Bidding Strategies

Bid Structures	Goals - Objectives
Qualification Round	Confirm offeror's ability to meet the ceiling price and intent to participate prior to bid day. Good for near commodities and low lot coverage.
Manual or Offline Bid	Used to set a baseline price or to perform an engineering review of quotes prior to going online.
Consolidation Rounds	Consolidate lots in a subsequent round to see if additional discounts or additional offeror consolidation can be achieved.
Volume Reduction Rounds	Used to bid large volumes of pure commodities where multiple offerors are to be awarded varying volumes.
Post-bid Cost Breakdowns	Used to obtain final line item prices or cost components for aggregate bids.
Pre-bid Day Proposals	Used to obtain offeror proposals for value-added services, fixed or non-recurring costs or any other issues that need to be confirmed prior to bid day.
Shadow Lots	In instances where there is a large amount of parts, it may be more feasible to do an 80/20 analysis on the data and only bid the 20%. Offerors awarded the 20% would also be awarded the corresponding 80% contained in the shadow lot (at a preset price).
Market Basket	In instances where there is a large amount of low-volume part data, but actual volumes and/or part numbers on much of the data is unknown, then data can be gathered on a market basket that is representative of the product mix and put up for bid.
Supply Chain Bids	Many contracting persons receive their products from strategic partners or value-added distributors. In these instances, value can be achieved by conducting a bid for the strategic partner.
Consortium Bidding	Many contracting persons may purchase the same products as other FreeMarkets customers in non-competing industries. In these instances, it may be possible to pool spend and conduct a consortium project.

5.3 Communicating with Incumbent Offerors

Offerors facing their first online markets devise strategies to reach their desired outcome. For offerors who want to gain access to an account, the strategy is clear—devise a low-cost production and delivery proposal that meets the contracting person's product specifications and quality requirements. For incumbent offerors, the strategy is less clear.

FreeMarkets has witnessed a range of incumbent offeror reactions. Incumbent offerors usually believe that it is in their best interest to avoid direct price competition, and they often use tactics to avoid direct price comparison. In all of these cases, the incumbent offeror's strategy has been to increase the contracting person's perceived risk of conducting online markets. However, in all cases, the **contracting person has complete control over the effectiveness of these strategies**. A contracting person who holds firm to the online bidding process will, in most cases, obtain the cooperative participation of the incumbent.

Most incumbent offerors eventually participate in online markets. They do so out of respect for the contracting person, out of confidence in their own efficiency, to win additional business or to keep their business. The following examples can help you frame a response to some of the reactions an incumbent offeror may have to the process.

Possible Incumbent Response	Your Recommended Response
"You don't care about quality anymore, only price!"	Our attitude toward quality has not changed.
"We will be competing against anyone with a modem!"	Bidding will be conducted via PC as opposed to fax or mail, but the contracting person will control who will be allowed to bid. We will pre-screen a narrow field of bidders to meet our standards.
"The relationship we've built is being thrown out of the window!"	Our valuation of the offeror relationship has not changed. We will consider the value of the existing relationship when comparing bids. You have an opportunity to gain business and strengthen the relationship in this project.
"My company doesn't do business that way!"	There are only 3 differences between this process and a "normal" bidding situation: <ul style="list-style-type: none"> • The bids will be submitted electronically • Instead of a one-time best market bid, you will be able to interact with the market • All offerors will have the same information
"This sounds like a reverse auction to me!"	You will be able to interact with the market, but the business does not automatically go to the low bidder. We will take all relevant factors into our award decisions.
"So are you planning on bidding business out this way every year?"	This is a specific project designed to ensure that we are aligned with the best offerors and receiving market prices. We intend to place this business over an extended period as appropriate and subject to offeror performance.

To avoid direct price competition, here are common tactics your incumbents may employ along with a recommended response.

Tactic	Tactic Defined	Your Response
Bluff	Try to sway the contracting person by claiming they will not participate	Incumbents must be made aware that you are totally committed to this process and there is no alternative
Time-bomb	Employ the bluff tactic at the last moment, immediately before the event	Same as above
Let's Make A Deal	Offer lower pricing in return for not going through the process	You should not be tempted because such an offer indicates that there is "money on the table", and other offerors haven't reacted to this offer
Groundswell	Try to build sympathy and opposition to the process through engineering, production and quality personnel on the contracting person side	Work to openly communicate the process throughout the buying organization. Everyone must be on board
Threat	Threatening retaliatory price increases on other business or other measures ("You can pick up your tools on our back dock this afternoon")	Evaluate the credibility of threats and plan as necessary
Do Nothing	Try to maintain business by refusing to participate and maintaining that current pricing still stands	Emphasize the integrity of the process: "If you do not bid, you will lose your business."
Bid-Around	Submitting a bid outside of the online market process (e.g., an oral or paper bid before, during or after the event)	Emphasize that no bids will be considered outside of the online market process
Collusion	Create collusion with other offerors	Offeror collusion is illegal and can be dealt with accordingly

6. Frequently Asked Questions

Why have we developed the Enterprise Sourcing Program with FreeMarkets?

We have developed this program to take advantage of the speed, efficiency, and discipline that can be brought to our sourcing process through this new tool.

How can we explain this initiative to our incumbent offerors?

"Incumbent offerors are a valuable asset to us. As with our customers, the advent of the information age makes it increasingly more difficult to demonstrate that value. We see the FreeMarkets' initiative as a tool to ensure that we are aligned with the right supply base."

Is FreeMarkets controlling this process or are we?

You control all key steps within the FreeMarkets process. The offeror selection and implementation decisions rest solely with you. This initiative is an effort to leverage FreeMarkets' experience and knowledge to assist in your decision-making.

What is our commitment to award contracts based on online market results using FreeMarkets?

For each lot, there are two possible situations:

- If **no offeror has reached the reserve price** of the lot, there is **no commitment** by us to award the business to one of the offerors who participated or at the price they submitted
- If at least one offeror has reached the reserve price, we are committed to award the lot, in its entirety, to one of the offerors who participated and at the price bid online.

Our interest is to establish a reasonable reserve price by lot so that all sourcing decisions are made in a sound way. If a offeror is very competitive on bid day, then we must make a good faith decision at considering his offer.

What is the offeror's commitment to the FreeMarkets process?

A offeror, by placing a bid online, is committed to the lowest bid that was submitted, in compliance to the contents of the Total Cost RFQ. This includes the division's specific requirements.

Won't this destroy the partnerships we've worked to create with our offerors?

The FreeMarkets process is an enabler to the front end of our strategic sourcing process. We will continue to integrate offerors within our businesses and work hard to strengthen those relationships. We cannot be successful in supporting our customers without a strong supply base.

This seems like it's just about low price. Don't we care about quality anymore?

The price-only stereotype is inaccurate. The intensity and depth of the RFQ process strengthens the awareness and need for quality and service. We generally build each RFQ to identify metrics to support quality and service as well as drive continuous improvement.

Will we use this process for everything?

The FreeMarkets process may not link to each of our commodity purchases. Each Business Group and Division will rationalize their purchases based on the needs and priorities within their business. We have put in place a long-term relationship with FreeMarkets and this rationalization will evolve as their business model changes.

What are the legal constraints linked to Bidding Online?

As with any sourcing project, we have to make sure that we have the right to put the parts in a RFQ and to transfer the business to a new offeror. Existing contracts and long term agreements must not be broken, and we cannot release part drawings that we don't own.

7. Online Market Terminology Glossary

Addressable Spend—The portion of the total spend of a certain client on a commodity that is appropriate for an online market.

Advance Sourcing—The process in which a contracting person is sourcing parts that have not yet been produced. This process occurs when a new program is designed and new parts are needed before production has started.

Available—In BidWare, the market for a specific lot is “available” for offerors to enter and save bids. No feedback and no interaction with other offerors occur at this time.

Bidder—In BidWare, a vendor participating in a FreeMarkets event and placing bids in order to win business. The bidder can be either a offeror in a buying event or a contracting person in a selling event.

Bidder Agreement—Legal agreement that a offeror is required to sign in order to participate in a FreeMarkets event.

BidWare—FreeMarkets’ proprietary software used to conduct online markets.

Online Market—An online session in which bidders submit bids to win business. Also referred to as an “event” or “Competitive Bidding Event (CBE)”.

Online Markets Parameters—The set of event variables that can be manipulated in BidWare to tailor the software to a specific event.

Closed—In BidWare, the market for a specific lot is “closed” when no more quotes are accepted into the market. This often follows the 5-minute “pending” period.

Commodities—Goods, usually materials, which are traded in efficient markets and for which market price exists. Also see “Near Commodities”.

Components—Parts that can be counted individually.

Cost breakdown—The breakdown of a offeror’s bid into it’s various elements of cost. Common elements required in a cost breakdown include raw material costs, labor, machine cost and shipping costs. If the bid is given for a group of parts, the cost breakdown will provide part-by-part information.

EAU—Estimated Annual Units are the number of units estimated to be used by a contracting person in a year. This figure is not necessarily equal to the annual units purchased due to inventory.

Efficient Market—A business environment in which the interaction between contracting persons and offerors for certain goods is free of frictions. Characteristics of an efficient market include: free and complete information for all participants, a large number of contracting persons and offerors and minimal transaction costs.

Extended Cost—The amount paid for the total quantity of goods being purchased derived by multiplying the piece price by the Estimated Annual usage.

GMOC—GMOC stands for Global Market Operations Center and is the FreeMarkets group that prepares, controls, manages and executes online markets. Also referred to as “Market Operations”.

Historic Cost—The current price (before the Enterprise Sourcing Project) a contracting person pays for parts, components and services.

Identified Savings—The difference between the Historic Cost and the lowest price in the market.

Implemented Savings—The difference between the historic price and the price bid by the offeror who is awarded the business.

Incumbent—The current offeror of a part to a contracting person.

Invite List—The list of offerors approved to participate in a specific online market.

Line Item Details—The section of an RFQ that describes, on a part-by-part basis, information such as part number, description, size, material and EAU.

Lot—A group of parts that serves as the basic unit offerors bid on. A lot is a logical commodity grouping that will be quoted and awarded together.

Lot Interest Form—A document that indicates which lots a offeror is interested in bidding on.

Lot Listing—A section of an RFQ which describes the specific information, on a lot-by-lot basis, within a specific event. Usually contains information such as: lot number, number of part numbers in lot, reserve price for lot, lot opening time, and lot closing time.

Market Price—The best price in the market. In a buying event this would be the lowest price offered by a offeror while in a selling event this would be the highest price offered by a contracting person.

Micro Reserve Price—In instances where more than one division is participating in a lot, a micro reserve price is set. This prevents offerors from bidding aggressively on one division's parts and not on another. A micro reserve price attempts to ensure that all divisions can share in the savings.

Modular Lotting—The process of developing lots, or attractive and awardable sets of requirements, for a bidding event. Modular lotting involves the process of developing final lots based on the grouping of similar requirements (modules) on a part-by-part basis and then combining these groups where appropriate.

Near Commodities—Goods, usually materials, for which some unique (i.e. company specific) restrictions exist, therefore they cannot be traded in efficient markets. Also see "Commodities".

NPV - Net Present Value—A financial term that denotes the current (present) value of a project that lasts over an extended period of time. NPV is calculated based on the expected cash inflows and outflows and the rate of return a company requires for the period calculated.

Offline—Activities that do not occur over the Internet. An offline event is a project that does not involve interaction among offerors over the Internet.

Open—The market for the specific lot is open when bids are being accepted from invited offerors.

Outsourcing—The process a company goes through to transfer in-house production to an outside offeror.

Overtime—The market for a specific lot is continued beyond its scheduled closing time due to interaction in the market place (i.e. offerors continuing to submit bids).

Pending—The market for a specific lot does not accept bids from offerors, but is not officially closed. This period is used to confirm that offerors have not had technical issues that prevented them from continuing to bid on a lot.

Reserve Price—The price at which it starts to make sense for the contracting person to move the business. This figure is communicated to offerors. Reserve price is determined by considering the historic price and the switching costs (including transition costs, implementation risks, and qualification costs.).

RFQ - Request For Quotation—The document sent to offerors with information on the goods up for bid. Also referred to as RFP – Request For Proposal.

Shadow Lot—A lot that consists of parts that are typically not put on-line for bid, rather are going to be awarded to the offeror who is awarded certain other lots in the event or bid off line.

Spend—Value of the parts being considered for sourcing.

Offeror Outreach—The process of recruiting offerors to participate in an Online Market.

Offeror Research—The process of researching the specific industries relevant for an Online Market to build the necessary knowledge required for the conduction of the Offeror Outreach. The main outcome of this process is the set of lists of offerors to be contacted for the event.

Supply Chain—The sequence of entities that produce the sub-goods (parts and raw materials) required for the production of a certain good.

Supply Chain Management—Process of integrating and managing entire supply chain, potentially across multiple companies.

Surrogate Bidding—A process in which bids are submitted by a bidder entered into BidWare by a FreeMarkets person rather than directly by the bidder. This process is used when the bidder is not able or not allowed to connect directly to the market place.

Tooling—Specialized Equipment that - in conjunction with other manufacturing machinery - enables the production of a specific part or a group of parts. Tools can be either "dedicated" (fits to produce one part only) or "flexible" (fits to produce a group of parts).

Total Cost RFQ—The document sent by FreeMarkets to offerors in preparation for the bid. It differs from the traditional RFQ in the industry by the fact that it provides all the necessary information for offerors to quote the parts up for bid on an equal basis.

Virtual BidWare—The version of BidWare that records all Online Markets and replays them for presentation purposes.

8. Additional Resources

In addition to contacting your Sourcing Program Manager, you can access the E-Sourcing Learning Center (ELC) through the FreeMarkets website to get additional information about enterprise sourcing. Visit the ELC to learn more about enterprise sourcing and how your company can improve its sourcing processes. You will find reports written by respected industry analysts, enterprise sourcing articles from around the Web, and other important resources, such as enterprise sourcing newsletters and customizable enterprise sourcing presentations.

It can be accessed by going to www.freemarkets.com and clicking on Visit the ELC or by directly to <http://elc.freemarkets.com>.

Recent postings include:

Measuring Up; E-Procurement

Manufacturing.net - 6/13/2002

It is more than three years since a range of blue-chip companies learned that by radically changing the way they buy everyday goods and services, they could make large cost savings which would go straight to the company's bottom line.

Panel Discussion: What's Next in Enterprise Sourcing

You have an enterprise sourcing program in place. Now what do you do for an encore? Noted research analysts Tim Minahan (Aberdeen) and Pierre Mitchell (AMR) discuss the state of enterprise sourcing from both the contracting person and offeror perspective, as well as developing trends, what industry leaders are doing, and how you can incorporate new opportunities into your enterprise sourcing initiative.

Appendix K

FreeMarkets FS – Solicitation Adder

Text to be added to USACE solicitation, or included in an amendment... Items in red will require bid-specific editing.

I. GENERAL

The Contracting Officer has opted to conduct an interactive, anonymous, on-line reverse auction ("auction") as described herein and in Attachment A. USACE has contracted with FreeMarkets, Inc. ("FreeMarkets") for FreeMarkets to conduct the auction for this solicitation. FreeMarkets refers to such an auction as a Competitive Bidding Event ("CBE"). For the sake of consistency and to avoid confusion, this solicitation will similarly refer to such auction as a CBE. However, use of this phrase shall not be construed to imply that this solicitation is being conducted under the procedures set forth at FAR Part 14, Sealed Bidding. Rather, this solicitation is being conducted under the procedures set forth at FAR Part 12, Acquisition of Commercial Items, in conjunction with the policies and procedures for solicitation, evaluation, and award prescribed in FAR Part 15, Contracting by Negotiation.

During the CBE, Offerors will provide pricing through submission of electronic offers via software that will be provided by FreeMarkets. The primary pricing competition for this solicitation will be through the online reverse auction. FreeMarkets will explain this process in detail and train each qualified offeror prior to the CBE. Offerors will have the ability to submit revised pricing during the CBE in response to prices submitted by other offerors. The identity of offerors will not be revealed to each other during the CBE. The final such revision during the CBE will be considered the Offeror's final proposal. The Contracting Officer reserves the right to conduct verbal or written discussions with respect to factors other than price with the Offerors at anytime prior to award.

Offeror's are NOT to submit pricing with their initial proposals. Offerors should submit all required information, except for pricing, and forms by the deadline for submissions on May 7, 2002.

Pricing will only be accepted through the CBE.

These forms are available for download at: www.USACE.gov/procurement/proelectron.htm and www.USACE.gov/procurement/proforms.htm:

- A signed copy of the original solicitation with blocks 12, 17a, 30a, 30b, and 30c completed. (Remember – Do not fill in pricing information)
- A signed copy of Amend 01, Attachments and any other amendments issued prior to offer due date.
- ACH form, ACH Vendor/Miscellaneous Payment Enrollment Form
- 52.212-3, Offeror Representations and Certifications --Commercial Items (4/2002)
- FPI9999-999-9, Business Management Questionnaire – completed for 3 references.

Attachment A - Information for Interaction with FreeMarkets, Attachment B - Bidware for Suppliers License Agreement, and Attachment C – Offeror Agreement are hereby incorporated into this solicitation.

II. REVERSE AUCTION

a. During the CBE, Offerors may revise their initial pricing proposal through submission of electronic offers during the anonymous CBE. This CBE shall constitute discussions with the Offerors. The final such revision during the CBE will be considered the Offeror's Final Proposal Revision (FPR).

b. The Contracting Officer reserves the right to suspend or cancel the CBE at any time. If the

Contracting Officer cancels the CBE, Final Proposal Revisions will be requested by an amendment to the solicitation.

c. Notwithstanding FAR 52.215-5, Offerors will submit revised pricing only through the online mechanism supplied by FreeMarkets. Offerors will not submit revised pricing via any other mechanism including but not limited to post, courier, fax, E-mail, or orally unless specifically requested by the Contracting Officer.

d. The CBE bidding period shall be set by the Contracting Officer as indicated in Section III, paragraph (a). Electronic offers shall be submitted by Offerors during the CBE period. If a market leading offer is submitted within the last minute of the time period, the time period shall be extended for one additional minute beyond the scheduled closing. The end of the last minute during which revised offers are permitted as addressed in this paragraph, shall be considered the end of the CBE bidding period.

e. Any Offeror experiencing difficulties during a CBE must notify FreeMarkets immediately. "Difficulties" include any event or problem, which interferes with the Offeror's ability to participate in the CBE and may include, but is not limited to: data entry errors, software problems, or hardware problems. Offerors will have five minutes after a Lot goes into "Pending" status to notify FreeMarkets of any problems. If the Contracting Officer judges that any Offeror has been disadvantaged by a problem, they may direct FreeMarkets to address the problem and return the Lot to "Open" status.

f. Any and all Offeror contact with FreeMarkets is for the sole purpose of facilitating the CBE and shall not be considered discussions with the Offeror within the meaning of FAR Part 15.

g. For purposes of FAR 52.203-2, and in accordance with subparagraph (c) thereof, submission of a proposal by the Offeror shall be considered certification by the Offeror that the only knowing disclosure by the Offeror of its prices to any other Offeror will be during the CBE. The Offeror further certifies that disclosure by the Offeror of its prices during the CBE shall not be for the purposes of restricting competition.

h. USACE reserves the right to reject any or all quotes received for any or all lots.

III. CBE PARAMETERS

a. The date of the Competitive Bidding Event is May 15, 2002. The Competitive Bidding Event shall be CBE # 5555. There will be 2 lots. The bid opening time shall commence at 11:00 a.m Eastern Daylight Time. The bidding period time shall expire at 11:40 a.m. unless a quote is submitted for Lot 1 within the last minute of the bid opening time period for Lot 1. If a quote is submitted within the last minute of the bidding period for either lot, the previously scheduled bid ending period for that lot shall be extended for an additional minute beyond the scheduled expiration time (provided the quote was the lowest quote received). The bidding period will continue to be extended for additional one-minute periods as long as a lower quote is submitted within the last minute. The bidding period for Lot 2 shall expire no less than seven (7) minutes after the actual expiration of the bidding period for Lot 1. The exact expiration times for each lot will depend on the number of overtime periods and will be controlled and displayed during the event via the BidWare software.

b. Only qualified Offerors will be permitted to submit electronic quotes through the FreeMarkets OnLine Bidding System. Quotes that Offerors submit through the FreeMarkets OnLine Bidding System are legally binding quotations without qualification. Quotes may not be cancelled or withdrawn except for data entry errors. Contractors must submit their quotes through the online bidding mechanism supplied by FreeMarkets and not through any other mechanism including but

not limited to post, courier, fax, e-mail, or orally.

c. In changing their quote prices, Offerors must change the amount of their quote by at least 0.25% and cannot place bids within 0.25% of the market leading quote.

d. In order to place a market leading quote, an Offeror must submit an offer that is lower than the current market leading quote but at least 0.25%.

e. In changing their quote prices, Offerors are not allowed to lower their quotes by more than twenty-five percent (25%) from their previous quote. If an Offeror wishes to change its quote price by more than this amount, the Offeror must submit successive quotes until the Offeror reaches the desired bid amount.

f. There will be 2 lots, as specified in the table below. Prices submitted during the CBE must be aggregate extended prices for each lot in its entirety based on the estimated maximum quantities listed in this solicitation as amended. FreeMarkets will provide each offeror with a detailed cost breakdown worksheet that offerors must use to submit their line item pricing after the CBE has concluded. In each offeror's submitted cost breakdown worksheets, all aggregate extended prices must correspond to the lowest aggregate extended prices entered by the offeror during the CBE.

INSERT TABLE HERE TO ASSIGN SOLICITATION LINE ITEM NUMBERS TO CBE LOTS.

INFORMATION FOR INTERACTION WITH FREEMARKETS, INC.

1. FreeMarkets' Interaction with Offeror. Any and all Offeror interaction with FreeMarkets is for the sole purpose of facilitating the CBE and shall not be considered discussions with the Offeror within the meaning for FAR Part 15.

a. FreeMarkets will (i) contact each Offeror identified by the Contracting Officer to participate in the Competitive Bidding Event ("CBE"), and (ii) explain the process to such Offerors.

b. In order for an Offeror to participate in the CBE, such Offeror must agree with the terms of the entire solicitation, including this Attachment, and agree to the terms of the BidWare for Suppliers License Agreement included as Attachment B to the solicitation by returning a signed copy of both documents to FreeMarkets prior to the CBE.

c. Each Offeror is an independent contractor with respect to FreeMarkets. Each Offeror agrees to release FreeMarkets from any liability with respect to the CBE or the conduct of any participant in the CBE, regardless of whether such liability arises under contract, tort, or any other theory.

d. Offerors shall keep the passwords and other confidential materials provided by FreeMarkets and/or the USACE and all pricing provided by another Offeror in confidence and shall not disclose the foregoing to any third party. Offerors shall also keep all software, manuals and documentation provided by FreeMarkets in confidence and, if requested, shall return the same to FreeMarkets at the conclusion of the CBE. Offerors shall keep their own pricing in confidence until after contract award.

e. The terms and conditions set forth in this Attachment along with the license terms and conditions contained with the BidWare software provided to Offerors ("License Agreement"), constitutes the entire understanding between Offerors and FreeMarkets. By submission of a proposal by the Offeror under the solicitation, an independent contractual obligation between FreeMarkets and the Offeror is created. Any waiver, modification or amendment of any provision of these terms and conditions or the License Agreement will be effective only if in writing and signed by FreeMarkets and the Offeror, with the consent of the Contracting Officer.

2. Delivery of Software to Offerors. FreeMarkets shall provide to each Offeror a copy of FreeMarkets' proprietary software ("BidWare _ for Suppliers) to be used by Offerors to input and monitor offers during a CBE, and to print results reports after a CBE. FreeMarkets shall also provide to Offerors the associated user manual for BidWare _ for Suppliers, and issue each Offeror a unique user identification and password to be used for the CBE. Offerors shall be responsible for the following:

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b. Installation of BidWare _ for Suppliers

c. Connection of such personal computers to the telecommunications service used for each CBE.

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a. Training. FreeMarkets will train designated employees of each Offeror in telephonic training sessions using real time "mock" auctioning to familiarize the Offerors' employees with the online auctioning system.

b. Trained Suppliers. An employee of an Offeror who successfully completes the training provided by FreeMarkets pursuant to Paragraph 3.a shall be designated by FreeMarkets as a "Trained Supplier." Only Trained Suppliers may participate in a CBE. The Contracting Officer reserves the right to request that Offerors provide an alternative Offeror employee to become a Trained Supplier. The Contracting Officer also reserves the right to take away the "Trained Supplier" designation from any Trained Supplier who fails to abide by the terms and conditions of the RFP, including this Attachment, and the FreeMarkets Software License.

4. Conduct of the CBE. For the preparation and conduct of each CBE, FreeMarkets will provide staff and equipment from its Global Market Operations Center ("GMOC ") located at FreeMarkets' facility in Pittsburgh, Pennsylvania, USA or at such other location determined by the Contracting Officer, to handle all CBE related activities as follows:

- a. Load all relevant CBE and technical parameters provided by the USACE into the online auctioning system;
- b. Ensure that only Trained Suppliers and designated USACE personnel have access to appropriate CBE information;
- c. Authenticate the identities of all Trained Suppliers and designated USACE personnel involved in the CBE and maintain password security within the online auctioning system;
- d. Maintain the GMOC for Trained Suppliers and designated USACE personnel to call with questions or technical problems before, during, or within a reasonable time after the CBE;
- e. Establish and maintain a secure virtual private network;
- f. Respond in a timely fashion to Trained Supplier issues with software or connectivity difficulties;
- g. Conduct procedures for ensuring that Trained Suppliers are prepared and present on the day of the CBE;
- h. Communicate any changes or adjustments to all Trained Suppliers as directed by the Contracting Officer; and
- i. Respond to Trained Supplier problems that might prevent participation using a secure "surrogate bidding" system.

_____	_____
Offeror	FreeMarkets
_____	_____
Date	Date

BidWare _ FOR SUPPLIERS LICENSE AGREEMENT

READ THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT CAREFULLY BEFORE SELECTING THE "YES" BUTTON BELOW TO ACCEPT THE TERMS OF THIS AGREEMENT. THIS SOFTWARE IS COPYRIGHTED AND LICENSED (NOT SOLD). BY SELECTING THE "YES" BUTTON, YOU ARE ACCEPTING AND AGREEING TO THE TERMS OF THIS AGREEMENT. IF YOU ARE NOT WILLING TO BE BOUND BY THE TERMS OF THIS AGREEMENT, YOU SHOULD SELECT THE "NO" BUTTON DECLINING THE TERMS, UNINSTALL THE SOFTWARE FROM YOUR PC AND PROMPTLY RETURN THE PACKAGE. THIS AGREEMENT AND THE SUPPLIER AGREEMENT REPRESENT THE ENTIRE AGREEMENT CONCERNING THE SOFTWARE BETWEEN YOU AND FREEMARKETS, INC. ("FREEMARKETS"), AND SUPERSEDE ANY PRIOR PROPOSAL, REPRESENTATION, OR UNDERSTANDING BETWEEN THE PARTIES.

1. GRANT OF LICENSE. Subject to the terms and conditions set forth in this BidWare _ for Suppliers License Agreement ("License Agreement"), FreeMarkets hereby grants to you a non-transferable and non-exclusive license (the "License") to use BidWare _ for Suppliers (the "Software") which has been delivered to you by FreeMarkets for the limited purpose, and subject to the terms set forth below. The License authorizes use of the Software only (i) for the purpose of submitting bids for the supply of goods or services in connection with an online auction known as a "Competitive Bidding Event" or "CBE" conducted by FreeMarkets, and (ii) by your employees who have been certified by FreeMarkets as "Certified Suppliers." For purposes of this License, your "use" of the Software, means to load the Software into PAM or to store the Software in a memory storage device such as a hard drive or CD-ROM. Under no circumstances shall the Software be made available on a file server or network other than the server and the network provided by FreeMarkets for the conduct of a CBE. Under no circumstances shall you copy the Software, or allow the Software to be copied, for any purpose other than to produce the single archival (backup) copy permitted under this License.

2. USE AND LOCATION.

a. The Software shall not be used to connect with any server, on-line service, or any other system except as specifically provided by FreeMarkets.

b. Certified Suppliers will be assigned a user ID and password to govern access to the FreeMarkets' Network and BidWare _ databases. FreeMarkets reserves the right to change or cancel or render inoperable any user ID and/or password at any time without prior notification. You are required at all times to maintain proper security for your assigned user IDs and password(s). Disclosure of user IDs and passwords to any person other than Certified Suppliers is strictly prohibited, and will be grounds for termination of this License and your participation in the CBE.

c. You understand that FreeMarkets may, from time-to-time, make available upgrades to modify the performance of the Software. You understand that in order to use the Software to participate in a CBE, FreeMarkets may require you to perform the necessary tasks, and supply the necessary computer equipment, to install software upgrades. Your failure to install upgrades or provide appropriate computer equipment may render the Software inoperable for its intended purpose.

3. WARRANTY DISCLAIMER/LIMITATION OF LIABILITY. FREEMARKETS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU

HEREBY ACKNOWLEDGE AND AGREE THAT THERE MAY SURFACE FROM TIME-TO-TIME "BUGS" OR "GLITCHES" THAT MAY AFFECT THE PERFORMANCE OF THE SOFTWARE. YOU AGREE TO ASSUME THE RISKS OF SUCH "BUGS" OR "GLITCHES." FREEMARKETS' SOLE OBLIGATION AND LIABILITY UNDER THIS LICENSE SHALL BE TO REMEDY ANY NON-CONFORMANCE OF THE SOFTWARE OR REPLACE THE SOFTWARE. THIS REMEDY IS EXCLUSIVE AND IN LIEU OF ALL OTHERS. FREEMARKETS SHALL NOT BE LIABLE FOR DAMAGES THAT MAY ARISE OUT OF YOUR USE OF OR INABILITY TO USE SOFTWARE OR PARTICIPATION OR INABILITY TO PARTICIPATE IN A COMPETITIVE BIDDING EVENT. FREEMARKETS SHALL NOT BE LIABLE FOR LOSS OF USE, INCOME OR PROFIT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES ARISING, DIRECTLY OR INDIRECTLY, OUT OF OR OCCASIONED BY THE OPERATION, USE, INSTALLATION, REPAIR OR REPLACEMENT OF THE SOFTWARE, ANY DELAY IN OR NON-OCCURRENCE OF ANY COMPETITIVE BIDDING EVENT AS PLANNED, WHETHER SUCH DAMAGES ARE BASED ON A CLAIM OF BREACH OF CONTRACT OR TORTUOUS CONDUCT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR ANY OTHER CAUSE OF ACTION.

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5. **NONASSIGNMENT OF USE OR LICENSE.** You may not assign or otherwise transfer, voluntarily, by operation of law or otherwise, any of your rights under this License, without, in each instance, FreeMarkets' prior written consent, which consent may be withheld, delayed or conditioned in FreeMarkets' sole discretion. Any attempted assignment or transfer in violation of the terms of this Section 5 shall be null and void, and will not relieve you of any of your obligations under this License.

6. **TERMINATION OF LICENSE.** The License is effective upon selecting the "YES" button, which indicates your acceptance of the terms of this License Agreement, and shall continue until terminated. The License shall terminate immediately upon completion of or termination of the CBE. FreeMarkets may terminate this License upon the breach by you of any of the terms hereof and you may terminate this License by returning the Software and all copies thereof and extracts therefrom to FreeMarkets. Upon any termination of the License, for whatever reason, you shall, within ten (10) days after such termination, return to FreeMarkets the Software, any and all copies thereof, materials related thereto and derivations therefrom then in your possession or under your control.

7. **GENERAL PROVISIONS.** This License will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of laws provisions. In the event that any provision of this License Agreement is held to be illegal, invalid or unenforceable under present or future laws by any court of competent jurisdiction, then such provision will be fully severable and this License Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision were not a part hereof.

_____ Offeror	_____ FreeMarkets
_____ Date	_____ Date

USACE CBE# 5555

Offeror Agreement

In consideration of the opportunity to participate in a "Competitive Bidding Event," _____
("Offeror") agrees to the following terms and conditions:

A. Solicitation. Offeror acknowledges that it has received, read and understood Solicitation with respect to the supply of <PROJECT> (the "items") in connection with a Competitive Bidding Event 5555 ("CBE") held by USACE ("Client") and conducted by FreeMarkets, Inc. ("FreeMarkets").

B. FreeMarkets an Independent Contractor. FreeMarkets is an independent contractor with respect to Client, Offeror and any other Offeror in the CBE.

C. Limited Liability. Offeror hereby releases FreeMarkets from any liability with respect to the CBE, including any conduct of FreeMarkets or any Offeror in the CBE, regardless of whether such liability arises under contract, tort or any other theory.

D. Confidentiality. Offeror shall keep all user names and passwords, other confidential materials provided by FreeMarkets and/or Client, and all bids provided by itself or another Offeror in confidence and shall not disclose the foregoing to any third party. Offeror shall also keep all software, manuals and documentation provided by FreeMarkets in confidence and if requested shall return the same to FreeMarkets at the conclusion of the CBE.

E. General. This Agreement is governed by the laws of the State of Delaware without giving effect to principles of conflicts of law. This Agreement and the license agreement contained with the BidWare® software provided to Offeror ("License Agreement") constitute the entire agreement between Offeror and FreeMarkets. Any waiver, modification or amendment of any provision of this Agreement or the License Agreement will be effective only if in writing and signed by FreeMarkets and Offeror.

F. Procedures and Rules. Offeror further agrees to be bound by the following obligations and/or procedures applicable to Offeror.

1. OFFEROR OBLIGATIONS AND/OR PROCEDURES REGARDING PARTICIPATION IN THE CBE.

1.1 Offeror agrees that participation in the CBE is further contingent upon its acceptance of the terms and conditions of the License Agreement.

1.2 Bids which Offeror submits through FreeMarkets are legally valid quotations without qualification, except for data entry errors.

1.3 Offeror agrees to submit bids only through the online bidding mechanism supplied by FreeMarkets and not to submit bids via any other mechanism including, but not limited to, post, courier, fax, E-mail, or orally unless specifically requested by Client or FreeMarkets.

1.4 In addition to any other remedies available to FreeMarkets, FreeMarkets may exclude Offeror from participating in future CBEs, with this Client or with future clients, due to Offeror's breach of any of the obligations and/or procedures contained in this Offeror Agreement or the License Agreement.

1.5 All parties will prohibit unethical behavior and are expected to notify FreeMarkets if they witness practices that are counter-productive to the fair operation of the CBE.

1.6 Any party experiencing difficulties during a CBE must notify FreeMarkets immediately. "Difficulties" include any event or problem, which interferes with the party's ability to participate in the CBE, and may include, but is not limited to data entry errors, software problems, or hardware problems. Parties will have five (5) minutes after a lot goes into "Pending" status to notify FreeMarkets of any problems. If FreeMarkets judges that any party has been disadvantaged by a problem, FreeMarkets will correct the problem and may return the lot to "Open" status.

2. FREEMARKETS' RIGHTS

2.1 FreeMarkets shall not hold title to, handle the physical distribution of, nor be held liable for failures of any components, materials, services or Offerors.

2.2 FreeMarkets has final responsibility for all decisions regarding the operation of the CBE. FreeMarkets may suspend or cancel the CBE at any time and without prior notification.

2.3 This Offeror Agreement only pertains to the CBE set forth in Section A above.

2.4 The terms and conditions set forth in this Offeror Agreement survive the conclusion and/or completion of the CBE.

FreeMarkets, Inc. Offeror:

By: _____ By: _____

Appendix L

FreeMarkets QS – Solicitation Adder

Text to be added to USACE solicitation, or included in an amendment... Items in red will require bid-specific editing.

I. GENERAL

The Contracting Officer has opted to conduct an interactive, anonymous, on-line reverse auction (“auction”) as described herein and in Attachment A. USACE has contracted with FreeMarkets, Inc. (“FreeMarkets”) for FreeMarkets to conduct the auction for this solicitation. This solicitation is being conducted

under the procedures set forth at FAR Part 12, Acquisition of Commercial Items, in conjunction with the policies and procedures for solicitation, evaluation, and award prescribed in FAR Part 15, Contracting by Negotiation.

During the AUCTION, Offerors will provide pricing through submission of electronic offers via a secure website . The primary pricing competition for this solicitation will be through the online reverse auction. FreeMarkets will explain this process in detail and train each qualified offeror prior to the AUCTION. Offerors will have the ability to submit revised pricing during the AUCTION in response to prices submitted by other offerors. The identity of offerors will not be revealed to each other during the AUCTION. The final such revision during the AUCTION will be considered the Offeror’s final proposal. The Contracting Officer reserves the right to conduct verbal or written discussions with respect to factors other than price with the Offerors at anytime prior to award.

Offeror’s are NOT to submit pricing with their initial proposals. Offerors should submit all required information, except for pricing, by the deadline for submissions on May 7, 2002. Pricing will only be accepted through the AUCTION.

Attachment A - Information for Interaction with FreeMarkets, Attachment B - Bidware for Suppliers License Agreement, and Attachment C – Offeror Agreement are hereby incorporated into this solicitation.

Offeror’s are NOT to submit pricing with their initial proposals. Offerors must submit the following completed forms, except for pricing, by the deadline for submissions on May 7, 2002 (Pricing only accepted through the AUCTION).

These forms are available for download at:

www.USACE.gov/procurement/proelectron.htm and www.USACE.gov/procurement/proforms.htm:

- A signed copy of the original solicitation with blocks 12, 17a, 30a, 30b, and 30c completed. (Remember – Do not fill in pricing information)
- A signed copy of Amend 01, Attachments and any other amendments issued prior to offer due date.
- ACH form, ACH Vendor/Miscellaneous Payment Enrollment Form
- 52.212-3, Offeror Representations and Certifications --Commercial Items (4/2002)
- FPI9999-999-9, Business Management Questionnaire – completed for 3 references.

II. REVERSE AUCTION

a. During the AUCTION, Offerors may revise their initial pricing proposal through submission of electronic offers during the anonymous AUCTION. This AUCTION shall constitute discussions with the Offerors. The

final such revision during the AUCTION will be considered the Offeror's Final Proposal Revision (FPR).

b. The Contracting Officer reserves the right to suspend or cancel the AUCTION at any time. If the Contracting Officer cancels the AUCTION, Final Proposal Revisions will be requested by an amendment to the solicitation.

c. Notwithstanding FAR 52.215-5, Offerors will submit revised pricing only through the online mechanism supplied by FreeMarkets. Offerors will not submit revised pricing via any other mechanism including but not limited to post, courier, fax, E-mail, or orally unless specifically requested by the Contracting Officer.

d. The AUCTION bidding period shall be set by the Contracting Officer as indicated in Section III, paragraph (a). Electronic offers shall be submitted by Offerors during the AUCTION period. If a market leading offer is submitted within the last two minutes of the time period, the time period shall be extended for two additional minutes beyond the scheduled closing. The end of the last minute during which revised offers are permitted as addressed in this paragraph, shall be considered the end of the AUCTION bidding period.

e. Any Offeror experiencing difficulties during a AUCTION must notify the Contracting Officer immediately.

"Difficulties" include any event or problem, which interferes with the Offeror's ability to participate in the AUCTION and may include, but is not limited to: data entry errors, software problems, or hardware problems. Offerors will have ten minutes after a Lot goes into "Pending" status to notify the Contracting Officer of any problems. If the Contracting Officer judges that any Offeror has been disadvantaged by a problem, they may direct FreeMarkets to address the problem and return the Lot to "Open" status.

f. Any and all Offeror contact with FreeMarkets is for the sole purpose of facilitating the AUCTION and shall not be considered discussions with the Offeror within the meaning of FAR Part 15.

g. For purposes of FAR 52.203-2, and in accordance with subparagraph (c) thereof, submission of a proposal by the Offeror shall be considered certification by the Offeror that the only knowing disclosure by the Offeror of its prices to any other Offeror will be during the AUCTION. The Offeror further certifies that disclosure by the Offeror of its prices during the AUCTION shall not be for the purposes of restricting competition.

h. USACE reserves the right to reject any or all quotes received for any or all lots.

III. AUCTION PARAMETERS

a. The date of the Auction is May 15, 2002. The Auction shall

be NAME. There will be 2 lots. The bid opening time shall commence at 11:00 a.m Eastern Daylight Time. The bidding period time shall expire at 11:40 a.m. unless a quote is submitted for Lot 1 within the last two minutes of the bid opening time period for Lot 1. If a quote is submitted within the last two minutes of the bidding period for any lot, the previously scheduled bid ending period for that lot shall be extended for an additional two minutes beyond the scheduled expiration time (provided the quote was the lowest quote received). The bidding period will continue to be extended for additional two-minute periods as long as a lower quote is submitted within the last two minutes. The bidding period for Lot 2 shall expire no less than ten (10) minutes after the actual expiration of the bidding period for Lot 1. The exact expiration times for each lot will depend on the number of

overtime periods and will be controlled and displayed during the event via the FreeMarkets QS software.

b. Only qualified Offerors will be permitted to submit electronic quotes through the USACE's FreeMarkets OnLine Bidding System. Quotes that Offerors submit through the FreeMarkets OnLine Bidding System are legally binding quotations without qualification. Quotes may not be cancelled or withdrawn except for data entry errors. Contractors must submit their quotes through the online bidding mechanism supplied by FreeMarkets and not through any other mechanism including but not limited to post, courier, fax, e-mail, or orally.

c. In changing their quote prices, Offerors must change the amount of their quote by at least 0.25% and cannot place bids within 0.25% of the market leading quote.

d. In order to place a market leading quote, an Offeror must submit an offer that is lower than the current market leading quote but at least 0.25%.

e. XXXIn changing their quote prices, Offerors are not allowed to lower their quotes by more than twenty-five percent (25%) from their previous quote. If an Offeror wishes to change its quote price by more than this amount, the Offeror must submit successive quotes until the Offeror reaches the desired bid amount.

f. There will be 2 lots, as specified in the table below. Prices submitted during the AUCTION must be aggregate extended prices for each lot in its entirety based on the estimated maximum quantities listed in this solicitation as amended. The Contracting Officer will provide each offeror with a detailed cost breakdown worksheet that offerors must use to submit their line item pricing after the AUCTION has concluded. In each offeror's submitted cost breakdown worksheets, all aggregate extended prices must correspond to the lowest aggregate extended prices entered by the offeror during the AUCTION.

INSERT TABLE HERE TO ASSIGN SOLICITATION LINE ITEM NUMBERS TO AUCTION LOTS.

INFORMATION FOR INTERACTION WITH FREEMARKETS, INC.

1. FreeMarkets' Interaction with Offeror. Any and all Offeror interaction with FreeMarkets is for the sole purpose of facilitating the AUCTION and shall not be considered discussions with the Offeror within the meaning for FAR Part 15.

a. FreeMarkets will (i) contact each Offeror identified by the Contracting Officer to participate in the Competitive Bidding Event ("AUCTION"), and (ii) explain the process to such Offerors.

b. In order for an Offeror to participate in the AUCTION, such Offeror must agree with the terms of the entire solicitation, including this Attachment, and agree to the terms of the included as Attachment B to the solicitation by returning a signed copy of both documents to FreeMarkets prior to the AUCTION.

c. Each Offeror is an independent contractor with respect to FreeMarkets. Each Offeror agrees to release FreeMarkets from any liability with respect to the AUCTION or the conduct of any participant in the AUCTION, regardless of whether such liability arises under contract, tort, or any other theory.

d. Offerors shall keep the passwords and other confidential materials provided by FreeMarkets and/or USACE and all pricing provided by another Offeror in confidence and shall not disclose the foregoing to any third party. Offerors shall also keep all software, manuals and documentation provided by FreeMarkets in confidence and, if requested, shall return the same to FreeMarkets at the conclusion of the AUCTION. Offerors shall keep their own pricing in confidence until after contract award.

e. XXXThe terms and conditions set forth in this Attachment along with the license terms and conditions contained with the BidWare software provided to Offerors ("License Agreement"), constitutes the entire understanding between Offerors and FreeMarkets. By submission of a proposal by the Offeror under the solicitation, an independent contractual obligation between FreeMarkets and the Offeror is created. Any waiver, modification or amendment of any provision of these terms and conditions or the License Agreement will be effective only if in writing and signed by FreeMarkets and the Offeror, with the consent of the Contracting Officer.

2. XXXDelivery of Access to Offerors. The Contracting Officer shall provide to each Offeror a copy of FreeMarkets' proprietary software ("BidWare _ for Suppliers) to be used by Offerors to input and monitor offers during a AUCTION, and to print results reports after a AUCTION. FreeMarkets shall also provide to Offerors the associated user manual for BidWare _ for Suppliers, and issue each Offeror a unique user identification and password to be used for the AUCTION. Offerors shall be responsible for the following:

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b. Installation of BidWare _ for Suppliers

c. Connection of such personal computers to the telecommunications service used for each AUCTION.

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a. Training. FreeMarkets will train designated employees of each Offeror in telephonic training sessions using real time "mock" auctioning to familiarize the Offerors' employees with the online auctioning system.

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- c. Authenticate the identities of all Trained Suppliers and designated USACE personnel involved in the AUCTION and maintain password security within the online auctioning system;
- d. Maintain the GMOC for Trained Suppliers and designated USACE personnel to call with questions or technical problems before, during, or within a reasonable time after the AUCTION;
- e. Establish and maintain a secure virtual private network;
- f. Respond in a timely fashion to Trained Supplier issues with software or connectivity difficulties;
- g. Conduct procedures for ensuring that Trained Suppliers are prepared and present on the day of the AUCTION;
- h. Communicate any changes or adjustments to all Trained Suppliers as directed by the Contracting Officer; and
- i. Respond to Trained Supplier problems that might prevent participation using a secure "surrogate bidding" system.

Offeror

FreeMarkets

Date

Date

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1. GRANT OF LICENSE. Subject to the terms and conditions set forth in this BidWare _ for Suppliers License Agreement ("License Agreement"), FreeMarkets hereby grants to you a non-transferable and non-exclusive license (the "License") to use BidWare _ for Suppliers (the "Software") which has been delivered to you by FreeMarkets for the limited purpose, and subject to the terms set forth below. The License authorizes use of the Software only (i) for the purpose of submitting bids for the supply of goods or services in connection with an online auction known as a "Competitive Bidding Event" or "AUCTION" conducted by FreeMarkets, and (ii) by your employees who have been certified by FreeMarkets as "Certified Suppliers." For purposes of this License, your "use" of the Software, means to load the Software into PAM or to store the Software in a memory storage device such as a hard drive or CD-ROM. Under no circumstances shall the Software be made available on a file server or network other than the server and the network provided by FreeMarkets for the conduct of a AUCTION. Under no circumstances shall you copy the Software, or allow the Software to be copied, for any purpose other than to produce the single archival (backup) copy permitted under this License.

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b. Certified Suppliers will be assigned a user ID and password to govern access to the FreeMarkets' Network and BidWare _ databases. FreeMarkets reserves the right to change or cancel or render inoperable any user ID and/or password at any time without prior notification. You are required at all times to maintain proper security for your assigned user IDs and password(s). Disclosure of user IDs and passwords to any person other than Certified Suppliers is strictly prohibited, and will be grounds for termination of this License and your participation in the AUCTION.

c. You understand that FreeMarkets may, from time-to-time, make available upgrades to modify the performance of the Software. You understand that in order to use the Software to participate in a AUCTION, FreeMarkets may require you to perform the necessary tasks, and supply the necessary computer equipment, to install software upgrades. Your failure to install upgrades or provide appropriate computer equipment may render the Software inoperable for its intended purpose.

3. WARRANTY DISCLAIMER/LIMITATION OF LIABILITY. FREEMARKETS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU

HEREBY ACKNOWLEDGE AND AGREE THAT THERE MAY SURFACE FROM TIME-TO-TIME "BUGS" OR "GLITCHES" THAT MAY AFFECT THE PERFORMANCE OF THE SOFTWARE. YOU AGREE TO ASSUME THE RISKS OF SUCH "BUGS" OR "GLITCHES." FREEMARKETS' SOLE OBLIGATION AND LIABILITY UNDER THIS LICENSE SHALL BE TO REMEDY ANY NON-CONFORMANCE OF THE SOFTWARE OR REPLACE THE SOFTWARE. THIS REMEDY IS EXCLUSIVE AND IN LIEU OF ALL OTHERS. FREEMARKETS SHALL NOT BE LIABLE FOR DAMAGES THAT MAY ARISE OUT OF YOUR USE OF OR INABILITY TO USE SOFTWARE OR PARTICIPATION OR INABILITY TO PARTICIPATE IN A COMPETITIVE BIDDING EVENT. FREEMARKETS SHALL NOT BE LIABLE FOR LOSS OF USE, INCOME OR PROFIT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES ARISING, DIRECTLY OR INDIRECTLY, OUT OF OR OCCASIONED BY THE OPERATION, USE, INSTALLATION, REPAIR OR REPLACEMENT OF THE SOFTWARE, ANY DELAY IN OR NON-OCCURRENCE OF ANY COMPETITIVE BIDDING EVENT AS PLANNED, WHETHER SUCH DAMAGES ARE BASED ON A CLAIM OF BREACH OF CONTRACT OR TORTUOUS CONDUCT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR ANY OTHER CAUSE OF ACTION.

4. **PROPRIETARY RIGHTS.** This License does not convey to you any proprietary or other rights in any Software, including, but not limited to, any patent, copyright, trademark, service mark, trade secret, trade name or other intellectual property rights, except that you will have the limited rights expressly set forth in this License.

5. **NONASSIGNMENT OF USE OR LICENSE.** You may not assign or otherwise transfer, voluntarily, by operation of law or otherwise, any of your rights under this License, without, in each instance, FreeMarkets' prior written consent, which consent may be withheld, delayed or conditioned in FreeMarkets' sole discretion. Any attempted assignment or transfer in violation of the terms of this Section 5 shall be null and void, and will not relieve you of any of your obligations under this License.

6. **TERMINATION OF LICENSE.** The License is effective upon selecting the "YES" button, which indicates your acceptance of the terms of this License Agreement, and shall continue until terminated. The License shall terminate immediately upon completion of or termination of the AUCTION.

FreeMarkets may terminate this License upon the breach by you of any of the terms hereof and you may terminate this License by returning the Software and all copies thereof and extracts therefrom to FreeMarkets. Upon any termination of the License, for whatever reason, you shall, within ten (10) days after such termination, return to FreeMarkets the Software, any and all copies thereof, materials related thereto and derivations therefrom then in your possession or under your control.

7. **GENERAL PROVISIONS.** This License will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of laws provisions. In the event that any provision of this License Agreement is held to be illegal, invalid or unenforceable under present or future laws by any court of competent jurisdiction, then such provision will be fully severable and this License Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision were not a part hereof.

Offeror

FreeMarkets

Date

Date

USACE AUCTION# 8888

Offeror Agreement

In consideration of the opportunity to participate in a "Competitive Bidding Event," _____
("Offeror") agrees to the following terms and conditions:

- A. Solicitation. Offeror acknowledges that it has received, read and understood Solicitation with respect to the supply of Electrical Components (the "items") in connection with a Competitive Bidding Event 8888 ("AUCTION") held by USACE ("Client") and conducted by FreeMarkets, Inc. ("FreeMarkets").
- B. FreeMarkets an Independent Contractor. FreeMarkets is an independent contractor with respect to Client, Offeror and any other Offeror in the AUCTION.
- C. Limited Liability. Offeror hereby releases FreeMarkets from any liability with respect to the AUCTION, including any conduct of FreeMarkets or any Offeror in the AUCTION, regardless of whether such liability arises under contract, tort or any other theory.
- D. Confidentiality. Offeror shall keep all user names and passwords, other confidential materials provided by FreeMarkets and/or Client, and all bids provided by itself or another Offeror in confidence and shall not disclose the foregoing to any third party. Offeror shall also keep all software, manuals and documentation provided by FreeMarkets in confidence and if requested shall return the same to FreeMarkets at the conclusion of the AUCTION.
- E. General. This Agreement is governed by the laws of the State of Delaware without giving effect to principles of conflicts of law. This Agreement and the license agreement contained with the BidWare® software provided to Offeror ("License Agreement") constitute the entire agreement between Offeror and FreeMarkets. Any waiver, modification or amendment of any provision of this Agreement or the License Agreement will be effective only if in writing and signed by FreeMarkets and Offeror.
- F. Procedures and Rules. Offeror further agrees to be bound by the following obligations and/or procedures applicable to Offeror.
1. OFFEROR OBLIGATIONS AND/OR PROCEDURES REGARDING PARTICIPATION IN THE AUCTION.
- 1.1 Offeror agrees that participation in the AUCTION is further contingent upon its acceptance of the terms and conditions of the License Agreement.
- 1.2 Bids which Offeror submits through FreeMarkets are legally valid quotations without qualification, except for data entry errors.
- 1.3 Offeror agrees to submit bids only through the online bidding mechanism supplied by FreeMarkets and not to submit bids via any other mechanism including, but not limited to, post, courier, fax, E-mail, or orally unless specifically requested by Client or FreeMarkets.
- 1.4 In addition to any other remedies available to FreeMarkets, FreeMarkets may exclude Offeror from participating in future AUCTIONS, with this Client or with future clients, due to Offeror's breach of any of the obligations and/or procedures contained in this Offeror Agreement or the License Agreement.
- 1.5 All parties will prohibit unethical behavior and are expected to notify FreeMarkets if they witness practices that are counter-productive to the fair operation of the AUCTION.
- 1.6 Any party experiencing difficulties during a AUCTION must notify FreeMarkets immediately. "Difficulties" include any event or problem, which interferes with the party's ability to participate in the AUCTION, and may include, but is not limited to data entry errors, software problems, or hardware problems. Parties will have five (5) minutes after a lot goes into "Pending" status to notify FreeMarkets of any problems. If FreeMarkets judges that any party has been disadvantaged by a problem, FreeMarkets will correct the problem and may return the lot to "Open" status.
2. FREEMARKETS' RIGHTS
- 2.1 FreeMarkets shall not hold title to, handle the physical distribution of, nor be held liable for failures of any components, materials, services or Offerors.
- 2.2 FreeMarkets has final responsibility for all decisions regarding the operation of the AUCTION. FreeMarkets may suspend or cancel the AUCTION at any time and without prior notification.
- 2.3 This Offeror Agreement only pertains to the AUCTION set forth in Section A above.
- 2.4 The terms and conditions set forth in this Offeror Agreement survive the conclusion and/or completion of the AUCTION.

FreeMarkets, Inc. Offeror:

By: _____ By: _____

Appendix M

**FreeMarkets Training - QS Foundations and
Sourcing with Online Markets**

No.	SWOM	QS Found	Division	Address	Point of Contact
1	14-Jan	15-Jan	Southwestern	2000 Ft. Point Rd. Galveston, TX 77553	Mr. Tom Benero
2	16-Jan	17-Jan	Centers & Labs	4820 University Square Huntsville, AL	Kathy Simmons
3	23-Jan	24-Jan	North Atlantic	100 Penn Square East Philadelphia, PA 19107	Robert Sharamatew
4	28-Jan	29-Jan	Great Lakes	600 Dr. Martin Luther King, Jr Louisville, KY 40202-2232	Christy Watts
5	29-Jan	30-Jan	South Atlantic	701 San Marco Blvd. Jacksonville, FL 32207-8175	Darlene Ainsworth
6	5-Feb	6-Feb	Northwestern	106 S. 15th Street Omaha, NE 68102- 1618	Phil Holeman
7	11-Feb	12-Feb	Mississippi Valley	4155 Clay Street Vicksburg, MS	Richard Johnson
8	19-Feb	20-Feb	South Pacific	911 Wilshire Blvd Los Angles, CA	MAJ Doug Schuetz
9			Pacific Ocean		

Appendix N

FreeMarkets® QS™ 5.0 Foundations

Course Agenda

<i>Time</i>	<i>Topic</i>	<i>Description</i>
8:00 – 8:20	Lesson 1 Course Introduction	<ul style="list-style-type: none"> • Welcome • Introductions and Logistics • Course Objectives • FreeMarkets QS Services
8:20 – 8:45	Lesson 2 QS Orientation	<ul style="list-style-type: none"> • Passwords • Logging in • Profiles • Navigation • Project Status • Workgroups
8:45 – 9:30	Lesson 3 Supplier Database	<ul style="list-style-type: none"> • Entering Supplier Data • Modifying Supplier Data • Building Supplier Groups
9:30 – 9:45	BREAK	
9:45 – 12:00	Lessons 4 and 5 Building RFx Projects	<ul style="list-style-type: none"> • Case Study review • Creating Supplier Question Templates • Building an RFI
12:00 – 1:00	LUNCH	
1:00 – 2:00	Lesson 6 Building an Auction	<ul style="list-style-type: none"> • Seven-Step wizard • Class Exercises • Supplier Feedback • Bid Formats • Overtime • Pricing (decrements, reserve, ceiling) • Configurable permissions • Uploading Documents
2:00 – 2:45	Lesson 7 Working with an Upcoming Auction	<ul style="list-style-type: none"> • Editing a project • Message Center • Checking Supplier Status • Customizable e-mail • Editing Uploaded Documents

<i>Time</i>	<i>Topic</i>	<i>Description</i>
2:45 – 3:00	BREAK	
3:00 – 4:00	Lesson 8 Working with an Auction In Progress	<ul style="list-style-type: none">• Bid Console Orientation (bid tracker & graph, supplier connectivity, administrator messages)• Navigating Bid Console• Mock Bid• Supplier Perspective• Administrator View
4:00 – 4:30	Lesson 9 Working with Completed Auctions	<ul style="list-style-type: none">• Reports (Surrogate bids, Bid Activity, Removed Bids)• Steps in Making an Award
4:30 – 5:00	Wrap Up	<ul style="list-style-type: none">• Individual Learning Outcomes• Course Evaluation and Feedback

FreeMarkets® Sourcing with Online Markets

Course Agenda

<i>Time</i>	<i>Topic</i>
8:00 – 8:20	Course Introduction
8:20 – 8:45	Lesson 1: Sourcing with Online Markets & Case Study
8:45 – 9:45	Lesson 2: Project Identification and Validation & Case Study
9:45 – 10:00	Lesson 3: Project Kickoff
10:00 – 10:15	Break
10:15 – 10:30	Lesson 4: Data Collection
10:30 – 11:00	Lesson 5: Supplier Outreach
11:00 – 12:00	Lesson 6: Lotting
12:00 – 1:00	Lunch
1:00 – 1:45	Lesson 7: Event Planning
1:45 – 2:45	Lesson 8: RFQ Development & Case Study
2:45 – 3:00	Break
3:00 – 3:15	Lesson 9: Supplier Management
3:15 – 3:45	Lesson 10: Event Day
3:45 – 4:15	Lesson 11: Award and Implementation
4:15 – 4:30	Lesson 12: Conclusion
4:30 – 5:00	Course Wrap-up and Evaluations

Appendix O

Project Number (CBE): 9799

Project Title: Construction of Medical Logistics Warehouse

Description: Fixed cost contract to construct a new 10,000 SF warehouse and administrative support facility. This project was originally solicited as competitive 8A, however no bids were within awardable limits. The online bidding tool was used in hopes of reducing bids to within awardable limits. The result was a project brought to within awardable limits and awarded at full scope.

Customer: USAF

Location: Langley Air Force Base, VA

Government Estimate: \$2,066,059

Process: Invitation for Bid (IFB)

Norfolk District Project Team

Debora Gray - Contracting Officer

Tom Kinney - Program Manager

Project Timeline

Advertise Date: 7/01/03

Bid Date: 7/31/03,

Participating Contractors: 3

Engineering Management Services

Atlas Resource Management Inc

WB Meredith

Bid Structure

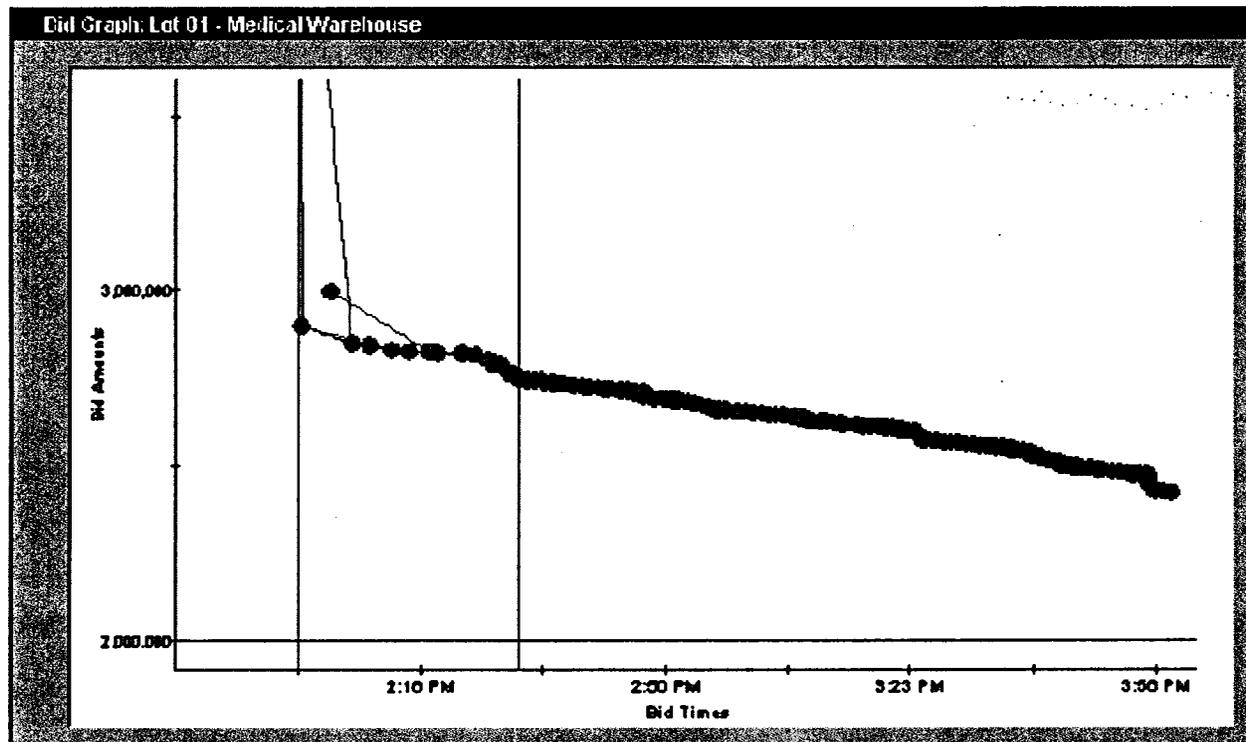
Lots: 1

Line Items: 7

(6 base items, 1 option)

Results

- Final low bid of \$2,422,000
- 127 bids received in 2 hours
- 16% (\$478,000) below initial low bid of \$2,900,000 (all 8A bids were above \$3,000,000)
- two low bidders within \$2,000 of each other



Project Number (CBE): 10202

Project Title: Construction of Additional /Alternate Parking Apron and Taxiway

Description: Fixed cost contract to construct an airfield taxiway, apron, and airfield ramp entrance. After completion of the design phase, the project team estimated the project to be 10.5% above the Programmed Amount (PA) and chose online bidding as a tool to facilitate award of the project in its entirety.

Customer: USAR

Location: Fort Dix, NJ

Government Estimate: \$9,511,661

Cost Construction Limit: \$9,009,000

Process: Invitation for Bid (IFB)

Project Timeline

Advertise Date: 8/8/03

Bid Date: 9/09/03, 4:00 – 4:30 PM

Louisville District Project Team

Kim McKnight - Contract Specialist

Mark Yates – Contracting Officer

Mike Ryan – Program Manager

Participating Contractors: 5

Ascend Construction Management

C Pyramid Enterprises

Eagle Construction Services

ML Ruberton Construction

NDK General Contractors

Bid Structure

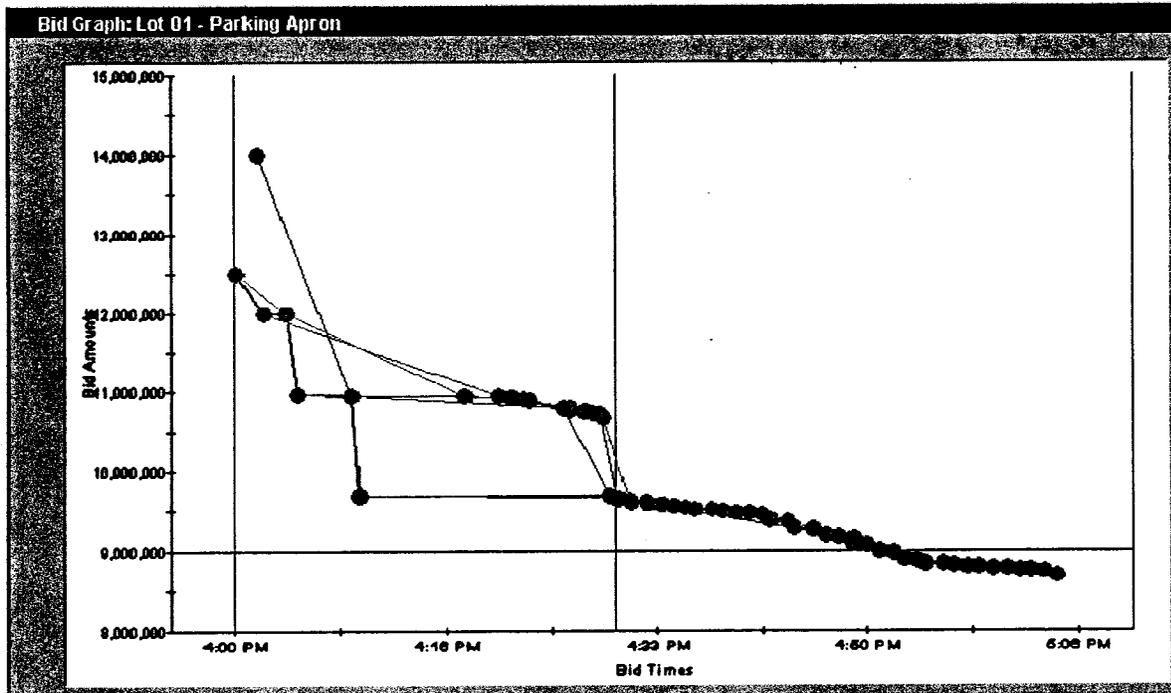
Lots: 1

Line Items: 8

(3 primary facilities, 3 supporting facilities, 2 options)

Results

- Final low bid of \$8,700,000
- 63 bids received in 1 hour
- 10.3% (\$1,000,000) below initial low bid of \$9,700,000
- 8.5% (\$811,661) below the government estimate
- 3.4% (\$309,000) below CCL



Project Number (CBE): 9473

Project Title: Construction of Consolidated Lodging Facility

Description: Fixed cost contract to construct a consolidated lodging facility at the Minneapolis-St. Paul International Airport Air Force Reserve Station.

Customer: Air Force Reserve

Location: Minneapolis-St. Paul International Airport

Government Estimate: \$3,875,100

Process: Invitation for Bid (IFB)

Project Timeline

Advertise Date: 6/16/03

Bid Date: 7/21/03,

Omaha District Project Team

Phil Holeman – Contracting Officer

Vince Turner – Program Manager

Participating Contractors: 4

Shaw Lundquist Associates Inc

Meisinger Construction Company

Bor Son Construction

LS Black Constructors Inc

Bid Structure

Lots: 1

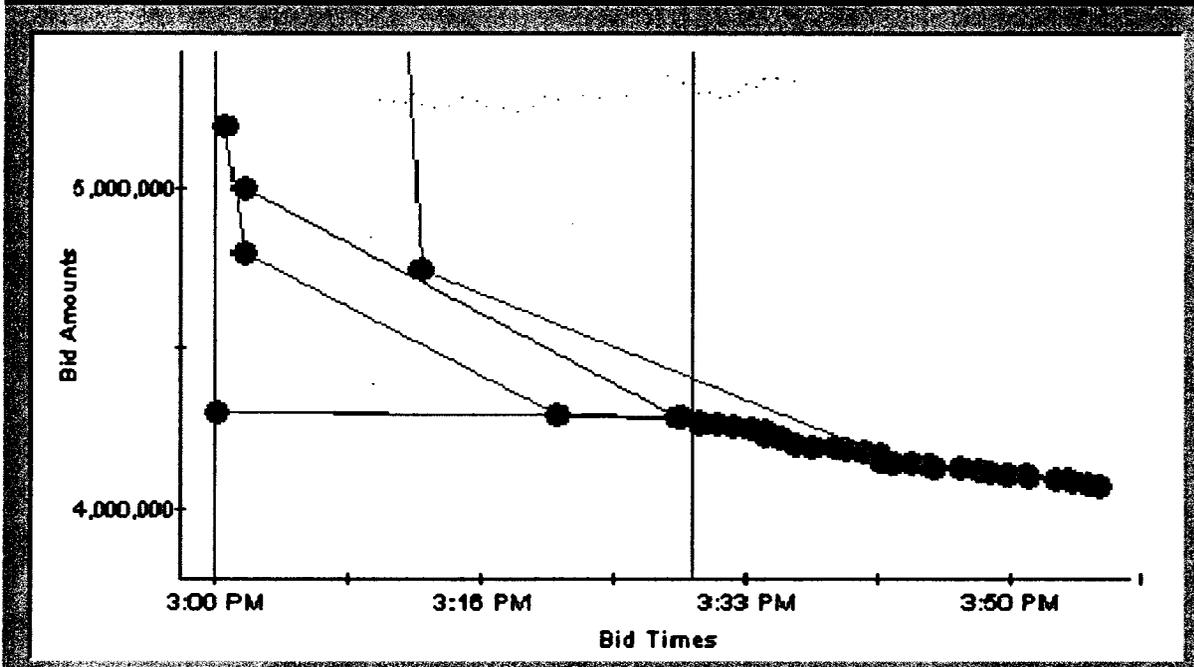
Line Items: 5

(1 facility, 4 options)

Results

- Final low bid of \$4,072,856
- 39 bids received in 1 hour
- 5.2% (\$227,144) below initial low bid of \$4,300,000
- three low bidders within \$11,000 of each other

Bid Graph: Lot 01 - Lodging Facility





Project Number (CBE): 9084

Project Title: 20 Inch Cutterhead Suction Dredge

Description: Inland River Dredge; 200' long w/ 20" cutter suction dredge; custom product which requires engineering and development; delivery location is Fountain City, Wisconsin.

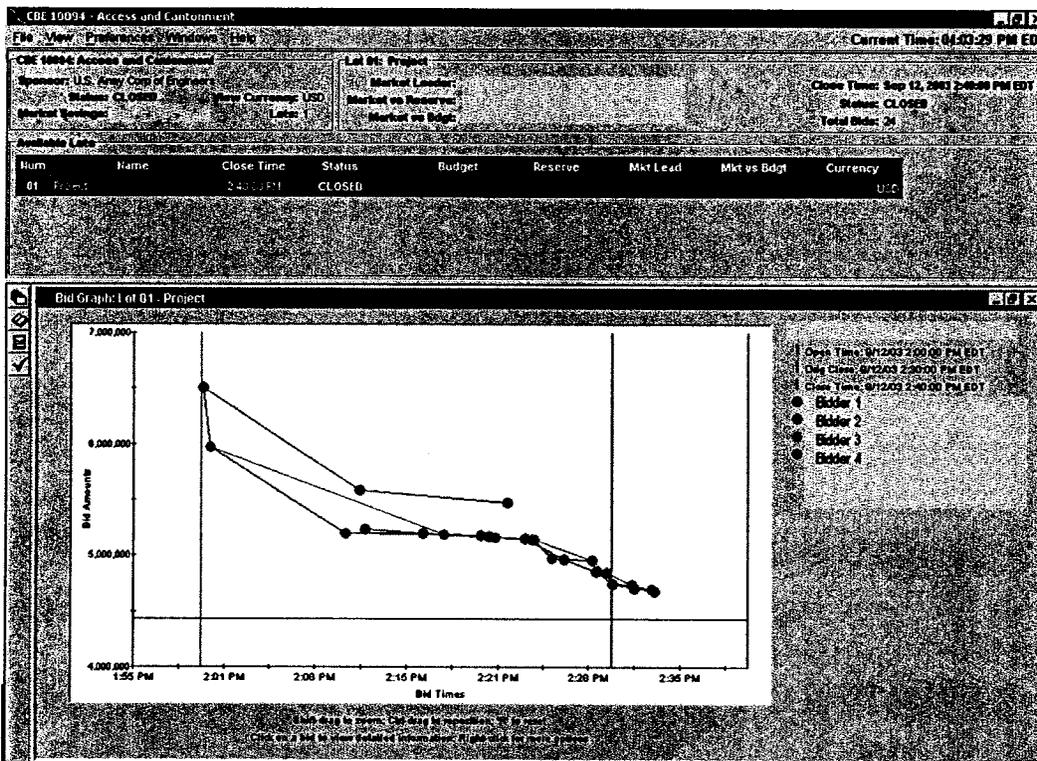
<p>Customer: St. Paul District / Marine Design Location: Government Estimate: \$5,000,000 Process: Best Value</p> <p>Project Timeline Advertise Date: 4/30/03 Bid Date: 9/16/03</p> <p>Bid Structure: Lots: 1 Line Items: 3</p>	<p>USACE Team Michelle Bertoline – Contracting Bill Gretzmacher – Marine Design</p> <p>Participating Contractors: 4 - Baltimore Dredges Llc, Ellicott Division - Bay Shipbuilding Co, Bay Shipbuilding Co - Eastern Shipbuilding Group, Panama City,FL - Oilfield Electric Marine, Oilfield Electric Marine</p> <p>Results not published due to confidentiality of Best Value selection process</p>
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Project Number (CBE): 10094

Project Title: Access Control Point & Cantonment Fencing

Description: construction of a new access control point consisting of demolition of selected roadway pavements, construction of new pavements, Visitor Control Center, Gatehouse, vehicle barrier systems, site utilities, exterior lighting, parking areas; construction of new fence, closure of the existing gate. Bid options for additional fencing and communication ductbank are also included. This project is 100% set aside for the Small Business HUBZONE program.

<p>Customer: USA Location: Fort Knox, KY Government Estimate: \$4,435,197 Process: Invitation for Bid (IFB)</p> <p>Project Timeline: Advertise Date: 8/11/03 Bid Date: 9/12/03</p> <p>Bid Structure: Lots: 1 Line Items: 1 (1 primary facility, 3 options)</p> <p>Louisville District Tom Dickert - Contract Specialist Mark Yates - Contracting Officer James Cruz - Project Manager</p>	<p>Participating Contractors: 4 (Hub-zone) Compton Construction KCB Construction Co., Inc. Lakeshore Engineering Services, Inc T.E.M. Electric Co., Inc TJC Engineering, Inc.</p> <p>Results</p> <ul style="list-style-type: none"> ➤ 24 bids received in 40 min ➤ 9.9% (\$516,099) below initial low bid of \$5,200,000 ➤ 4.3% (\$209,688) below the govt estimate of \$4,893,589
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Project Number: QuickSource 1002; Solicitation No.: DACW21-03-Q-0015

Project Title: Liquid Nitrogen

Description: Supply 8,000 tons of Liquid Oxygen to the Richard B. Russell Dam and Lake
Project Office, Elberton, GA

<p>Customer: USA Location: Savannah Government Estimate: \$XXXX Process: Invitation for Bid (IFB)</p> <p>Project Timeline: Advertise Date: 3/12/03 Bid Date: 4/02/03</p> <p>Savannah District Edwina Frayall</p>	<p>Participating Contractors: 4</p> <p>Results</p> <ul style="list-style-type: none">➤ 26 bids received in 52 min➤ 17.97% (\$93,760) below the govt estimate of \$xxxxx
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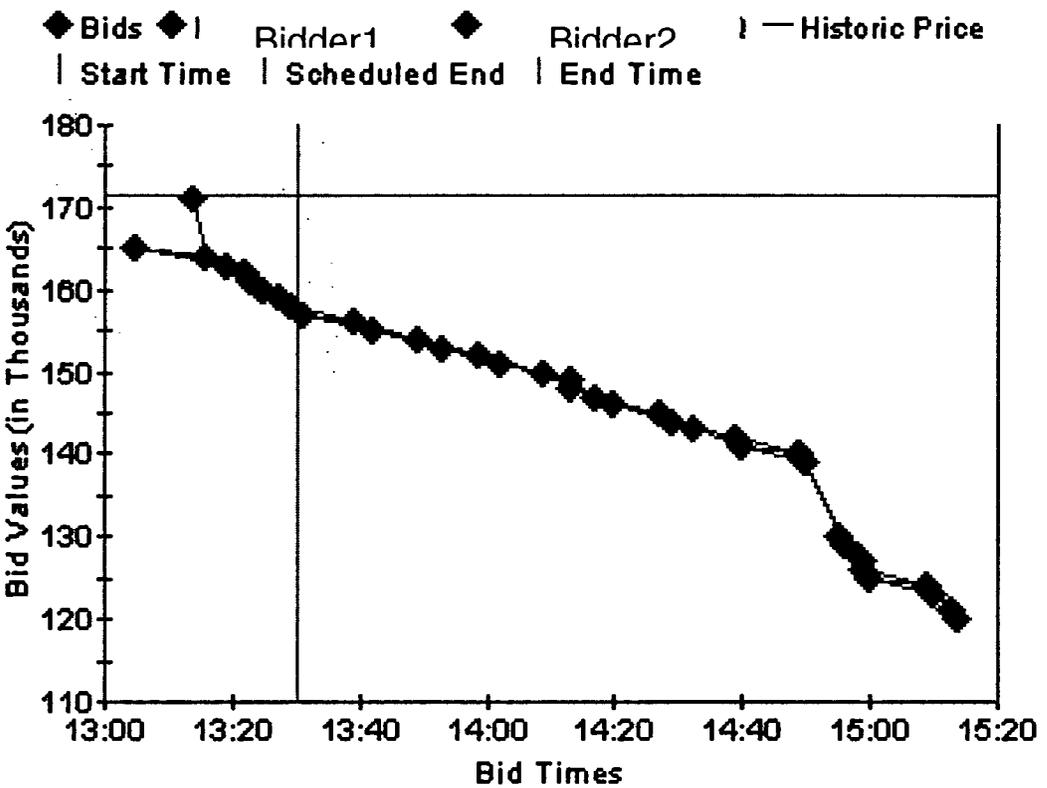
Project : QuickSource 1004

Project Title: Furniture – Germany; Warner Bldg 7044

Description: Barracks Furniture; Germany

<p>Customer: USA Location: Huntsville Government Estimate: \$ 171,542</p> <p>Project Timeline Bid Date: 7/29/03</p> <p>Huntsville District Sue Werner</p>	<p>USACE Team Michelle Bertoline – Contracting Bill Gretzmacher – Marine Design</p> <p>Participating Contractors: 2 New England Woodcraft Inc. UNICOR/Blockhouse DQ</p> <ul style="list-style-type: none"> ➤ 38 bids received ➤ 30% (\$51,542) below the govt estimate of \$171,542
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Bid Graph Shift-Drag=Zoom, Ctrl-Drag=Pan, r=Reset





Project : QuickSource 1005
Project Title: IDIQ-C-RFP-03-0015

Description: IDIQ-C-RFP-03-0015

Customer: USA Location: Pittsburgh Government Estimate: \$ 356,738 Project Timeline Bid Date: 9/18/03 Great Lakes and Ohio River	USACE Team Darrin Barber Participating Contractors: 3 <ul style="list-style-type: none">➤ 99 bids received➤ 20% (\$71,738) below the govt estimate of \$356,738
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Appendix P

USACE Cancelled Projects

CBE #	Div	District	Prog	Strat	Math	Title	Agency	Location	Est. Value	ID	Advertise	Bid Day	USACE POC	Notes
Cancel	SWD	Little Rock	MIL	RFP	BV	C-130J Maintenance Training Facility	USAF	Little Rock Air Force Base	\$8,000,000	6/13/03				Cancelled, customer concerned about time sensitivity
Cancel	NWD	Kansas City	MIL	IFB		Access Control Points and Cantonment Fencing	USA	Fort Leavenworth, KS	\$7,000,000	6/11/03			Bud Marks, Contract Specialist (816) 983-3850;	Cancelled, customer concern about low bid, willing to pay higher price - security
Cancel	NWD	Omaha	MILCON	IFB	LPTA	Fire / Crash Rescue	USAF	Offutt AFB	\$8,000,000	3/24/03				Cancelled due to timeline / delay
Cancel	SAD	Savannah	MILCON	IFB	LPTA	82nd Fire Station	USA	Ft Bragg, NC	\$1,400,000	3/24/03				Cancelled due to timeline / delay
Cancel	LRD	Louisville	MILCON	IFB	LPTA	U S Army Reserve Center	USAR	Ft Story, VA	\$12,000,000	3/20/03				Cancelled due to timeline / delay
Cancel	SPD	Los Angeles	MILCON	MATOC	BV	C-17 Hanger	USAF-R	March AFB	\$15,000,000	2/20/03				Cancelled due to customer misunderstanding

Appendix Q

OPINION

BASKIR, Judge.

Following the Court's issuance of a Temporary Restraining Order (TRO) on September 17, 2003, the Government advised the Court that it was willing to enact a voluntary stay until October 8, 2003. Consequently, the Court dissolved the TRO as moot. Pursuant to agreement, the Plaintiff's brief and supplemental memorandum on the TRO were treated as a brief on the merits of a Motion for Judgment on the Administrative Record. The Government and the Intervenor, Shaw-Lundquist, both submitted briefs in opposition and the Plaintiff submitted a reply to these briefs. Because the issues in this case are thoroughly briefed, and argument was heard on the issues previously, **no further Oral Argument is necessary.**

To the extent that the Government and the Intervenor restate the same legal arguments presented prior to the Court's issuance of a TRO, we find those arguments as unpersuasive now as they were then; further, we reject the new arguments of the parties. The reasoning of the TRO applies to this decision, with some additional observations below. We attach the Order of September 17, 2003, granting the TRO, as an Appendix and incorporate it into this Opinion.

Therefore, the Court **GRANTS Plaintiff's Motion for Judgment on the Administrative Record for a Permanent Injunction. The Court hereby enjoins the U.S. Army Corps of Engineers from awarding the contract in Solicitation No. DACA 45-03-B-0003. The Government is ordered to take action consistent with the Solicitation and this ruling. The Clerk is directed to enter judgment accordingly. We DENY the Defendant's Cross Motion for Judgment on the Administrative Record. The Government's request for a bond is also DENIED as moot.**

The Government and Intervenor challenge three factual assertions made by Meisinger. First, the Government challenges Meisinger's assertion that it was informed clicking the Take Market button would always produce a valid lower bid. The Government quotes from FreeMarkets' training materials in support of its claim. However, the instruction language states that the Take Market option will "automatically generate a bid" and "maintain the minimum

required distance from the current leader.” Defendant’s Opposition (Sept. 25, 2003), Appendix, p. 6. Further, the training materials never explicitly state that there may be circumstances in which the Take Market option will not produce a valid lower bid.

It is interesting that in all its submissions the Government never explicitly states what the program would produce when a bidder follows its bid with a Take Market bid after a single intervening Take Market bid is made. If the Take Market option does not produce a valid minimum bid in these circumstances, it would appear that the training materials are inconsistent. In any event, the uncertainty about the effect of a Take Market bid in these circumstances is irrelevant as to whether the “difficulty” provision in the Bidder Agreement was properly invoked and applied. Bidder Agreement, para. 1.6.

Second, the Government attacks Meisinger’s assertion that none of its previous bids were rejected by the FreeMarkets’ program because they were not a proper bid. The former bids and the reasons they were rejected are irrelevant for the purposes of this Court’s ruling. Further, neither the bidding method, nor the reasons for rejection can be reconstructed at this point. What is undisputed is that Meisinger entered an improper bid during the last round of bidding.

Third, the Government asserts that the error could not have been caused by accidentally pushing the “Submit” button without also having a bid entered. Shaw-Lundquist, the Intervenor, also raises this issue. While Ms. Folino’s affidavit supports this claim, it is not entirely conclusive. In any event, whatever the cause, there is no question that the Meisinger’s bid was “inadvertent,” in the Government’s words, and that it resulted in an erroneous bid. A plain reading of the text of para 1.6 of the Bidder Agreement and the U.S. Army Corps of Engineers decision on August 27, 2003, shows that both admit that data entry errors fall within the purview of this “difficulty” provision.

We note the persistent effort of the Government to read into the “difficulty” paragraph qualifications of “fault” and timeliness of bids – qualifications that are not supported by the plain language. It is clear that the paragraph is poorly worded if, indeed, these qualifications are intended. But imperfections in drafting cannot be employed by the Government to change the terms and conditions of the Bidder Agreement. As we noted in our Order

granting the Plaintiff's Motion for a Temporary Restraining Order, we will not import new requirements into the Bidder Agreement; rather, we apply the plain meaning of the text.

Finally, the Court also notes that the Government attempts to offer new evidence along with its filing of the Administrative Record. Only limited circumstances exist in which the record may be supplemented by "extra-record" evidence. See, *Murakami v. United States*, 46 Fed. Cl. 731, 735 (2000). The Government has not moved to supplement the Administrative Record, nor justified its effort. In any event, the Court does not find the new evidence persuasive or relevant.

Costs to the Plaintiff.

IT IS SO ORDERED.


LAWRENCE M. BASKIR
Judge

FACTS

Plaintiff, Meisinger Construction Company, Inc. (Meisinger), is a general contractor engaged in the business of constructing commercial and government construction projects. Meisinger brings this action concerning a solicitation by the U.S. Army Corps of Engineers (ACE) for the construction of the Consolidated Lodging Facility at the Minneapolis/St. Paul International Air Force Reserve Station.

The solicitation utilized an online Competitive Bidding Event (CBE). The CBE occurred on July 21, 2003. Bidders were required to sign a Bidder Agreement in order to participate in the CBE. For a bid to be acceptable it had to be at least 0.125 percent lower than the current low bid and 0.25 percent lower than the bidder's previous bid; if a bid did not meet these criteria it would presumably be rejected. The bidding program allowed bidders to select from one of three options:

- i. Entering a specific amount for their bid;
- ii. "Down Arrow," which would calculate the minimum 0.25 percent reduction from the bidder's previous bid; or
- iii. "Take Market," which would calculate a bid 0.125 percent lower than the current bid.

If a bidder submitted a bid within one minute of the closing time of the CBE, bidding would go into an "overtime" period of one minute. Plaintiff alleges that during one of these "overtime" periods it accidentally chose the "Submit" option without entering a new bid amount, rather than selecting the "Take Market" option, as it intended. This automatically resulted in a re-submission of Meisinger's previous bid which, of course, had since been under-bid by another participant. Meisinger's bid was rejected and the bidding closed.

Plaintiff reported these circumstances within the prescribed time limit of five minutes and requested that the CBE be reopened, invoking sec. 1.6 of the Bidder's Agreement which governed the resolution of bidding "difficulties." Meisinger contends their error constitutes a "difficulty" as defined by the Bidder Agreement because it interfered with their ability to participate in the CBE. Meisinger's request was denied by the Contracting Officer. Plaintiff

submitted on July 29, 2003 a written protest to the Army Corps of Engineers regarding its decision not to reopen bidding. This was denied on August 27, 2003, in a written opinion.

DISCUSSION

Standards of Review

This Court examines four factors in determining whether or not to award a TRO or preliminary injunction:

- A. Plaintiff is likely to succeed on the merits of its claim;
- B. That the plaintiff will suffer a specific irreparable injury if performance is not enjoined;
- C. The harm to the plaintiff outweighs any harm to the defendant; and
- D. Granting the requested relief serves the public interest.

See, e.g., Cincom Sys. v. United States, 37 Fed. Cl. 266, 268 (1997). The Plaintiff bears the burden of proof. *Id.* Because the Plaintiff has successfully met its burden, its request for a temporary injunction is hereby granted.

A. Success on the Merits

The United States contends first that the Bidder Agreement's sec. 1.6 on resolving "difficulties" was not binding on the government; that the error was not included within the listed difficulties; that it did not "interfere" with Meisinger's participation; and finally that the Contracting Officer properly exercised his discretion under the Bidder Agreement by concluding Meisinger was not "disadvantaged." We reject each of these contentions.

Incorporation

As an initial matter, the Court finds that the solicitation incorporates the Bidder Agreement. Moreover, both the Government and the ACE use language in their papers which supports this conclusion when describing the relationship between the Agreement and the solicitation. The Government quotes with approval the ACE opinion which states "[s]et forth in the

solicitation was a 'Bidder Agreement.' This agreement *incorporated* the terms and conditions of the reverse auction process." (emphasis added) Defendant's Opposition (Def.'s Opp'n) at 4. As the Government's brief notes, bidders were required to submit bids using the "Reverse Auctioning Procedures" and bidding software provided by Freemarkets, supporting the contention that the solicitation incorporated the Bidder Agreement. Def.'s Opp'n at 4.

The first page of the solicitation states that "[a]ll bids from prime contractors will be submitted using FreeMarket's 'Reverse Auctioning Procedures.'" Moreover, Amendment No. 2 provides that "[i]n order to participate in this online event, Bidders must agree to the rules and procedures of the online marketplace as specified in the *Bidder's Agreement*." Amendment No. 3 requires bidders to sign the Agreement.

Not only did the solicitation require bidders to abide by the Bidder Agreement but the Contracting Officer had a role in the Agreement, to judge whether "any party has been disadvantaged by a problem," a role which he performed, clearly indicating that the Bidder Agreement is part of the solicitation. See Bidder Agreement, sec. 1.6.

Data Entry Errors

The second question, then, is does this particular event qualify for remedy under the Bidder Agreement. The Agreement provides

Any party experiencing *difficulties* during a CBE must notify FreeMarkets immediately. "*Difficulties*" include any event or problem, which *interferes* with the party's ability to participate in the CBE, and may include, but is not limited to *data entry errors*, software problems, or hardware problems. Parties will have five (5) minutes after a lot goes into "Pending" status to notify FreeMarkets of any problems. If the Contracting Officer judges that any party has been *disadvantaged* by a problem, FreeMarkets will correct the problem and may return the lot to "Open" status.

(emphasis added) Bidder Agreement, sec. 1.6.

If difficulties "may include data entry errors," then Meisinger's accidental submission of its prior bid qualifies as a difficulty under a plain reading of the text, as the ACE's opinion concedes.

The Government contends that the Bidder Agreement includes a fault requirement. This contention defies a plain reading of the text. The Agreement itself gives no indication that there exists a fault requirement before a bidder will be afforded relief under sec. 1.6. Moreover, it is difficult to conceive of a data entry error that is not the result of fault.

The Court likewise finds unpersuasive Government's proposal that because Meisinger waited until there was no time for correction before submitting its bid, its error does not qualify under sec. 1.6. Clearly, data entry errors that were corrected would not be the sort that the Bidder Agreement addresses. Further, waiting to bid until the last seven seconds of a one minute period does not seem unreasonable. The Court, therefore, rejects this attempt to add fault as a term to the contract.

"Interferes"

The use of the word "interfere" in the Bidder Agreement also is a definitional issue for the Court to decide. The *Oxford English Dictionary* defines "interfere" as "to come into collision or opposition, so as to affect the course of." *Oxford English Dictionary Online* (2nd ed., 1989). Meisinger's data error clearly interfered with its ability to participate in the CBE. Its incorrect bid disqualified the Plaintiff from further bidding and no greater interference exists than being removed from the playing field.

The Government's contention that because Meisinger successfully submitted twelve bids during the CBE it should somehow be precluded from stating that a "difficulty" occurred during its thirteenth bid attempt appears to the Court to be arbitrary. The plain text of the Bidder Agreement offers no indication that "difficulty" ends with the first bid, or the final bid. The Court will not, therefore, add this condition to the agreement.

"Disadvantaged"

Finally, under the Bidder Agreement, the only place the Contracting Officer had discretion was in the determination of whether or not Meisinger was "disadvantaged" by its data entry error. This Court reviews the Contracting Officer's actions in this post-award bid protest under a deferential standard, only setting aside decisions which are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A) (2003).

Because being disqualified from the CBE cannot be anything but a "disadvantage" under the terms of the Bidder Agreement, the Contracting Officer acted arbitrarily and capriciously in denying Meisinger the opportunity to correct its error. Decisions which lack a reasonable basis or result from an abuse of discretion qualify as arbitrary and capricious as a matter of law. *Keco Indus., Inc. v. United States*, 203 Ct. Cl. 566, 574 (1974). *Oxford's* defines "disadvantaged" as "to place in an unfavorable position; to affect unfavorably." *Id.* Taken in a competitive bidding process, disqualification is the ultimate unfavorable position. It was clear abuse of discretion on the part of the Contracting Officer to determine that the Plaintiff was not disadvantaged by its error.

The Government and the ACE initially took the position that even were the Plaintiff to have successfully hit the "Take Market" button its bid would have been rejected as mathematically insufficient. The insufficiency calculates to a 2/10,000 of a percent error. The Court notes that there is insufficient evidence as to what the FreeMarket program would actually do in such a case. Further, even were Meisinger to be disqualified due to a mathematical error, such an error could be characterized as a software problem and thus fall under the remedies provided by sec. 1.6 of the Bidder Agreement. In any event, the government receded from this position at argument.

FAR 14.407

Finally, the Court will address the Government's position that FAR

14.407 applies to this CBE. The Court finds this argument unpersuasive for several reasons. First, the FAR does not apply directly to a reverse auction process; it applies to *sealed bids*. Clearly, bids which are correctable and whose amounts are public in order to induce lower bidding are not sealed. Moreover, the procedure addressing how difficulties should be handled as outlined in the solicitation and the Bidder Agreement supercedes the FAR.

B. Irreparable Harm

In this case, the harm to the Plaintiff is obvious. Meisinger was deprived of the opportunity to submit the low bid. In other words, the bidding process improperly excluded Meisinger. Further, this improper exclusion deprived Meisinger of the opportunity not only of submitting a low bid but also of participating in a fair bidding process.

C. Harm to Plaintiff Outweighs the Harm to the Defendant

The Court finds no harm to the Government in awarding this temporary restraining order. Should the bidding be reopened the Government would receive a lower bid for the project. In any case, the solicitation at issue concerns a housing project for which ten days time is not of the essence.

D. The Public Interest

Granting injunctive relief here serves the public interest because the enforcement of the terms of a solicitation always serves the public interest. In this case, the Court observes that there will be financial savings to the Government as Meisinger obviously intended to submit a lower bid. "Obtaining services at the lowest cost consistent with procurement needs" and "avoiding unfair auction techniques" both serve the public interest. *Isratex, Inc. v. United States*, 25 Cl. Ct. 223, 231 (1992) quoting *Logicon, Inc. v. United States*, 22 Cl. Ct. 776, 795-96 (1991).

CONCLUSION

The Court, therefore, hereby grants Plaintiff's Motion for a Temporary Restraining Order. The Court awards no bond, in part, because the Government has not estimated the cost of this ten day injunction. The question of costs is reserved.

IT IS SO ORDERED.


LAWRENCE M. BASKIR
Judge

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SPECIAL INSTRUCTIONS: Re. Meisinger Constr. Co.

Tom & Bob

FYI.

jack