

General Services Administration

509.105-1

508.705-74 Compliance with orders.

(a) Contracting officers shall take appropriate action on delinquent delivery orders until all deliveries are made. In cases of excusable delays, contract delivery schedules should be extended without obtaining consideration. However, when the delay is inexcusable, normal procedures should be followed in reviewing and adjusting contract prices if appropriate.

(b) If the CNA delays acting on a request for or refuses to grant a purchase exception, the matter should be referred to the contracting director for expeditious resolution of the problem with the Committee.

508.706 Purchase exceptions.

CNA purchase exception numbers must be cited in solicitations and subsequent award documents.

Subpart 508.8—Acquisition of Printing and Related Supplies

508.802 Policy.

The Director of the Reproduction Services Division (CAR) is the central printing authority for GSA and serves as the liaison with the Joint Committee on Printing and the Public Printer on all matters related to printing.

PART 509—CONTRACTOR QUALIFICATIONS

Subpart 509.1—Responsible Prospective Contractors

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Subpart 509.5—Organizational Conflicts of Interest

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- 509.507 Procedures.

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 54 FR 26507, June 23, 1989, unless otherwise noted.

Subpart 509.1—Responsible Prospective Contractors

509.105 Procedures.

509.105-1 Obtaining information.

(a) In making a determination of responsibility, the contracting officer may use the GSA Form 527, Contractor's Qualifications and Financial Information, to obtain information regarding financial capability from a prospective contractor.

(b) Advice should be obtained from all appropriate activities, including legal counsel, quality control, credit and finance, in arriving at a determination that an offeror qualifies as responsible under the standards set forth in FAR 9.104.

(c) The "auditor" in FAR 9.105-1(b)(2)(ii) is the Assistant Inspector General for Audits in the Central Office or the Regional Inspector General for Audits in the regions except for the evaluation of a prospective contractor's financial competence and credit

needs, then it is the Chief, Credit and Finance Section, Region 6.

509.105-3 Disclosure of preaward information.

When an offer is rejected because of a determination by the contracting officer that the prospective contractor is not responsible, the contracting officer shall notify the prospective contractor by letter of the basis for the rejection. This will provide the offeror with the opportunity to cure the factors that lead to the nonresponsibility determination prior to the submission of offers in response to future solicitations.

509.106 Preaward surveys.

509.106-2 Requests for preaward survey.

The contracting officer or a designee requests a preaward survey by forwarding the Standard Form 1403, Preaward Survey of Prospective Contractor (General), accompanied by the appropriate subparts of the preaward survey (Standard Forms 1404 through 1408) to the surveying activities. The Federal Supply Service is authorized to use GSA Form 353, Performance Evaluation & Facilities Report, for preaward surveys instead of Standard Forms 1403 through 1406. The contracting officer shall complete Section I of the GSA Form 353 in accordance with instructions in 553.370-353-I.

[58 FR 64694, Dec. 9, 1993]

Subpart 509.2—Qualification Requirements

509.202 Policy.

(a) The Federal Supply Service Commodity Center Engineering Division Director shall prepare the written justification required by FAR 9.202(a)(1).

(b) The heads of contracting activities shall approve determinations under FAR 9.202(e) that a proposed procurement need not be delayed to comply with FAR 9.202(a).

509.204 Responsibility for establishment of a qualification requirement.

The Commodity Center Director shall make determinations under FAR 9.204(a)(2) that the Government should

bear the cost of conducting specified testing and evaluation for a small business concern or a product manufactured by a small business concern.

509.206 Acquisitions subject to qualification requirements.

509.206-1 General.

The contracting director shall submit requests that a qualification requirement not be enforced in a particular acquisition to the Commodity Center Engineering Division Director under FAR 9.206-1(e)(3).

509.206-2 Solicitation provisions and contract clauses.

The contracting officer shall insert the clause at 552.209-73, Product Removal from Qualified Products List, in solicitations and contracts, when qualified products are to be acquired. The clause supplements the clauses at FAR 52.209-1 and 52.209-2.

Subpart 509.3—First Article Testing and Approval

509.302 General.

When first article testing and approval is appropriate for a procurement pursuant to FAR Subpart 9.3, the general policy of the Federal Supply Service (FSS) is to require:

- (a) The contractor to perform required testing, unless after coordinating with the technical specialist and Quality Assurance Division (FQA) in the Office of Quality and Contract Administration the contracting officer determines that Government testing is in the best interest of the Government;
- (b) That the first article be produced at the same facility where production quantities will be produced; and
- (c) That the first article serve as the manufacturing standard.

509.303 Use.

The contracting officer shall coordinate all determinations to require first article testing and approval with the technical specialist and FQA. At the time of coordination, the contracting officer should obtain the following information from the technical specialist and FQA:

(a) The test requirements for inclusion in the solicitation as outlined in FAR 9.306 (a) and (b).

(b) Advice on whether the contractor or the Government should perform required testing.

(c) The information necessary to complete the fill-in requirements of FAR clauses 52.209-3 First Article Approval—Contractor Testing [and alternates], and 52.209-4 First Article Approval—Government Testing [and alternates].

509.306 Solicitation requirements.

The contracting officer shall insert the provision at 52.209-74, Waiver of First Article Testing and Approval Requirement, in solicitations that require first article testing and approval. Any determinations to waive first article testing under FAR 9.306(c) must be approved before award by the technical specialist and the Quality Assurance Division (FQA). The first article tests to be performed by the contractor or the Government must be set forth in the solicitation.

509.308 Contract clauses.

509.308-1 Testing performed by the contractor.

In accordance with FAR 9.308-1, the FSS contracting officers shall use the clause at FAR 52.209-3 with its Alternate I and the supplemental clause at 52.209-75, Supplemental Requirements for First Article Approval—Contractor Testing.

509.308-2 Testing performed by the Government.

In accordance with FAR 9.308-2, FSS contracting officers shall use the clause at FAR 52.209-4 with its Alternate I and the supplemental clause at 52.209-76, Supplemental Requirements for First Article Approval—Government Testing.

Subpart 509.4—Debarment, Suspension, and Ineligibility

509.401 Applicability.

This subpart applies to acquisitions of personal property, nonpersonal services (including construction), space in buildings, transportation services

(FPMR Subpart 101-40.4), contracts for disposal of personal property (FPMR Subpart 101-45.6), and to covered transactions as defined at GSPMR 105-68.110(a).

509.403 Definitions.

Debarring official and *suspending official* mean the Associate Administrator for Acquisition Policy or a designee.

Fact-finding official means the Chairman of the Debarment and Suspension Board within the GSA Board of Contract Appeals or a designee.

Notice means a letter sent by certified mail, return receipt requested, to the last known address of a party, its counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt will then be presumed.

509.405-1 Continuation of current contracts.

(a) Termination of current contracts should be considered under the circumstances set forth in (a) (1) and (2) of this section.

(1) When the circumstances giving rise to the debarment or suspension also constitute a default in the contractor's performance of the contract, termination for default under the contract's "Default" clause is appropriate.

(2) If the contractor presents a significant risk to the Government in completing a current contract, the contracting officer shall determine whether termination for convenience or cancellation under appropriate contract provisions is in the Government's best interest. In making this determination, the contracting officer shall consult with counsel and should consider the following factors:

- (i) Seriousness of the cause for debarment or suspension;
- (ii) Extent of contract performance;
- (iii) Potential costs of termination and reprocurement;
- (iv) Urgency of the requirement and the impact of the delay of reprocurement;
- (v) Availability of other safeguards to protect the Government's interest until completion of the contract.