

## Health and Human Services

319.506

(2) When using a Small Business Sought notice, an OPDIV shall not request that potential sources provide more than the minimum information necessary—see *FAR 10.001(b)*, to determine whether they have the apparent capability to perform a requirement and, therefore, whether they should be included in any future competition. The notice and the information received shall not be used to determine how well respondents can perform a requirement, which can only be evaluated in response to a solicitation. Accordingly, the notice shall not be used to—

(i) Obtain capability statements that are evaluated and determined acceptable or unacceptable;

(ii) Require cost/price proposals or detailed technical solutions;

(iii) Identify a prospective sole source; or

(iv) Exclude small business concerns.

(3) OPDIVs shall follow the standard HHS instructions for completing a “Small Business Sources Sought” notice.” The template for the notice is available on the ASFR/OGAPA/DA Internet Web site. The Contracting Officer shall post the notice in FedBizOpps by selecting and completing a Sources Sought notice, accessible on the FedBizOpps “Notices” page at: <http://www.fedbizopps.gov>. Additional information may be included in the notice in accordance with OPDIV procedures. The Contracting Officer shall document, in the form of a memorandum to the file, the results of the review by technical personnel of information submitted in response to the notice, including whether each respondent appears to be capable of performing the requirement. The Contracting Officer shall attach a copy of the analysis provided by the technical personnel to the memorandum.

### **319.270-1 Solicitation provision and contract clause.**

(a) The Contracting Officer shall insert the provision in *352.219-70*, Mentor-Protégé Program, in solicitations that include the clause in *FAR 52.219-9*, Small Business Subcontracting Plan. The provision requires that offerors provide the Contracting Officer a copy of their HHS Office of Small and Dis-

advantaged Business Utilization (OSDBU)-approved mentor-protégé agreement in response to a solicitation. (b) The Contracting Officer shall insert the clause in *352.219-71*, Mentor-Protégé Program Reporting Requirements, in contracts that include the clause in *FAR 52.219-9*, Small Business Subcontracting Plan, and which are awarded to a contractor with an HHS OSDBU-approved mentor-protégé agreement.

### **Subpart 319.5—Set-Asides for Small Business**

#### **319.501 General.**

(e) Subsequent to the Contracting Officer’s recommendation on *Form HHS 653*, HHS Small Business Review Form, the SBS shall review each proposed acquisition strategy and either concur or not concur with the Contracting Officer’s recommendation. The PCR shall also review the acquisition strategy and either concur or not concur with the Contracting Officer’s recommendation. If the Contracting Officer disapproves the SBS’s or the PCR’s set-aside recommendation, the Contracting Officer shall document the reasons on *Form HHS 653* and place the form in the contract file. The Contracting Officer shall make the final determination as to whether the proposed acquisition will be set-aside or not.

#### **319.506 Withdrawing or modifying set-asides.**

(d) Immediately upon notice from the Contracting Officer, the SBS shall provide notification of all set-aside withdrawals to the OSDBU Director by both telephone and e-mail.