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48 CFR Ch. 3 (10-1-11 Edition)

Subpart 319.7—Subcontracting With Small Business, Small Disadvantaged Business, and Women-Owned Small Business Concerns

Subpart 323.71—Green Purchasing Requirements

323.7100 Policy.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 74 FR 62398, Nov. 27, 2009, unless otherwise noted.

319.705 Responsibilities of the Contracting Officer under the subcontracting assistance program.

Subpart 323.70—Safety and Health

319.705-5 Awards involving subcontracting plans.

323.7000 Scope of subpart.

(a)(3) The Contracting Officer shall provide the PCR a period of 1 to 5 working days to review the contract award package, depending upon the circumstances and complexity of the individual acquisition.

This subpart prescribes the use of a safety and health clause in contracts involving hazardous materials or operations, and provides procedures for administering safety and health provisions.

PART 322—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

323.7001 Policy.

Subpart 322.8—Equal Employment Opportunity

Various statutes and regulations (e.g., the Walsh-Healy Act and *Service Contract Act*), require adherence to minimum safety and health standards by contractors engaged in potentially hazardous work. *FAR subpart 23.3* serves as the primary reference regarding hazardous materials. The Contracting Officer shall follow the guidance in this subpart when the guidance in the FAR is not sufficient or does not meet the safety and health situation for an acquisition.

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322.810 Solicitation provisions and contract clauses.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 74 FR 62398, Nov. 27, 2009, unless otherwise noted.

Subpart 322.8—Equal Employment Opportunity

323.7002 Actions required.

322.810 Solicitation provisions and contract clauses.

(h) The Contracting Officer shall insert the clause in 352.222-70, Contractor Cooperation in Equal Employment Opportunity Investigations, in solicitations, contracts, and orders that include the clause in FAR 52.222-26, Equal Opportunity.

(a) *Contracting activities.* The Contracting Officer shall insert the clause in 352.223-70, Safety and Health, or a clause substantially the same, in solicitations and contracts that involve hazardous materials or operations for the following types of requirements:

(1) Services or products.

(2) Research, development, or test projects.

(3) Transportation of hazardous materials.

(4) Construction, including construction of facilities on the contractor's premises.

(b) *Safety officers.* OPDIV safety officers shall advise and assist initiators of acquisition requests and Contracting Officers in—

PART 323—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Subpart 323.70—Safety and Health

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323.7000 Scope of subpart.

323.7001 Policy.

323.7002 Actions required.

(1) Determining whether safety and health provisions shall be part of a prospective contract;

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(2) Evaluating a prospective contractor's safety and health programs; and

(3) Conducting post-award reviews and surveillance to the extent deemed necessary.

(c) *Initiators.* Initiators of acquisition requests for items described in paragraph (a) of this section shall—

(1) During the preparation of an acquisition plan or other acquisition request documentation, and in the solicitation, ensure that hazardous materials and operations to be used in the performance of the contract are clearly identified; and

(2) During the period of performance—

(i) Apprise the Contracting Officer of any noncompliance with safety and health provisions identified in the contract; and

(ii) Cooperate with the safety officer in conducting review and surveillance activities.

Subpart 323.71—Green Purchasing Requirements

323.7100 Policy.

(a) The HHS guidelines and procedures for “green purchasing” may be found in the HHS Affirmative Procurement Plan (APP), “Purchasing Environmentally Preferable Products and Services at the U.S. Department of Health and Human Services.” The APP encompasses the acquisition and use of designated recycled content, and Energy Star®, Electronic Product Environmental Assessment Tool (EPEAT)-registered, energy-efficient, bio-based, and environmentally preferable products.

(1) ASFR/OGAPA/DA has overall responsibility for monitoring the OPDIVs' implementation of HHS' APP to ensure compliance with Executive Order 13423, “Strengthening Federal Environmental, Energy, and Transportation Management;” the White House Council on Environmental Quality's Implementing Instructions for Executive Order 13423; Section 6002 of the Resource Conservation and Recovery Act of 1976; Section 104 of the Energy Policy Act of 2005; Section 9002 of the Farm Security and Rural Investment Act of 2002; Section 612 of the Clean Air Act of 1990; and FAR *Part 23*.

(2) The OPDIVs, through their designated APP Program Managers, are responsible for establishing the necessary local procedures and appropriate training requirements to ensure effective implementation of the HHS APP.

PART 324—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 324.1—Protection of Individual Privacy

Sec.

324.000 Scope of subpart.

324.102 General.

324.103 Procedures.

Subpart 324.2—Freedom of Information Act

324.203 Policy.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 74 FR 62398, Nov. 27, 2009, unless otherwise noted.

Subpart 324.1—Protection of Individual Privacy

324.000 Scope of subpart.

This part prescribes policies and procedures that apply requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and *OMB Circular A-130, Revised, November 30, 2000*, to HHS contracts and cites the Freedom of Information Act (5 U.S.C. 552, as amended).

324.102 General.

(a) It is HHS policy to protect the privacy of individuals to the maximum possible extent, while permitting the exchange of records required to fulfill HHS administrative and program responsibilities and its responsibilities for disclosing records to which the general public is entitled under the Freedom of Information Act (5 U.S.C. 552). The Privacy Act of 1974 and the HHS implementation under 45 CFR Part 5b apply “when an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish any agency function * * *.” The key factor is whether an HHS function is involved. Therefore, the Privacy Act requirements apply to an HHS contract when, under the contract, the contractor must maintain or