

it through appropriate acquisition channels, including the HCA, to the suspending official in accordance with 309.470-1. The suspending official shall initiate an investigation.

(b) *Decision making process.* The suspending official shall review the results of the investigation, if any, and make a written determination whether or not suspension shall occur. ASFR/OGAPA/DA shall send a copy of the determination through appropriate acquisition channels to the initiating official and the Contracting Officer. If the suspending official determines that suspension is necessary, the suspending official shall consult with OGC-GLD and then notify the contractor in accordance with FAR 9.407-3(c). If the action is not based on an indictment, and, subject to the provisions of FAR 9.407-3(b) (2), the contractor's submission in response to the notice raises a genuine dispute over facts material to the suspension, the suspending official shall, after imposing the suspension, arrange for fact-finding hearings and take the necessary actions specified in FAR 9.407-3(b)(2).

309.470 Reporting of suspected causes for debarment or suspension or the taking of evasive actions.

309.470-1 Situations where reports are required.

The Contracting Officer shall forward a report, incorporating the information required by 309.470-2, through appropriate acquisition channels, including the HCA, to the Associate DAS for Acquisition whenever a contractor—

(a) Has committed, or is suspected of having committed, any of the acts described in FAR 9.406-2 or FAR 9.407-2; or

(b) Is suspected of attempting to evade the prohibitions of debarment or suspension imposed under this subject, or any other comparable regulation, by changes of address, multiple addresses, formation of new companies, or by other devices.

309.470-2 Contents of reports.

The Contracting Officer shall coordinate each report prepared under 309.470-1 with OGC-GLD and include the following information, when available:

(a) Contractor name and address.

(b) Name of the principal officers, partners, owners, or managers.

(c) All known affiliates, subsidiaries, or parent firms, and the nature of the affiliation.

(d) Description of the contract or contracts concerned, including the contract number and office identifying numbers or symbols; the amount of each contract; the amount paid to the contractor and the amount still due; and the percentage of work completed and to be completed.

(e) The status of vouchers.

(f) Whether contract funds have been assigned pursuant to the Assignment of Claims Act, as amended, (31 U.S.C. 3727, 41 U.S.C. 15), and, if so assigned, the name and address of the assignee and a copy of the assignment.

(g) Whether any other contracts are outstanding with the contractor or any affiliates, and, if so, the amount of the contracts, whether these funds have been assigned pursuant to the Assignment of Claims Act, as amended, (31 U.S.C. 3727, 41 U.S.C. 15), and the amounts paid or due on the contracts.

(h) A complete summary of all available pertinent evidence.

(i) A recommendation as to the continuation of current contracts.

(j) An estimate of damages, if any, sustained by the Government as a result of the contractor's action, including an explanation of the method used in making the estimate.

(k) The comments and recommendations of the Contracting Officer and statements indicating whether the contractor should be suspended or debarred, whether any limitations are necessary, and the period of any proposed debarment.

(l) As an enclosure, a copy of the contract(s) or pertinent excerpts therefrom, appropriate exhibits, testimony or statements of witnesses, copies of assignments, and other relevant documentation or a written summary of any information for which documentation is not available.

PART 310—MARKET RESEARCH

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

310.001 Policy.

(a) OPDIVs are encouraged to conduct market research, to the maximum extent practicable, consistent with the urgency, complexity, and dollar value of a proposed acquisition, as well as their past experience with the same or similar requirements.

(3)(i) An OPDIV may issue an advance notice, entitled “Sources Sought” in FedBizOpps in accordance with the requirements of *FAR Part 5*, whenever a sufficient number of sources has not been identified to obtain adequate competition for a non-R & D project. The primary purpose of a Sources Sought notice is to identify all potential sources, regardless of organizational type and size classification, and determine their capabilities to fulfill a potential Government requirement. The notice is not intended to solicit technical, scientific, or business information for project planning purposes regarding existing or potential solutions. In the latter instance, an RFI may be used—see *FAR 15.201(e)* and *315.201(e)*.

(ii) When using a Sources 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—

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

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

(C) Identify a prospective sole source; or

(D) Exclude small business concerns.

(iii) While not the primary intent of a Sources Sought notice, in addition to seeking information regarding all potential qualified sources, the notice may request that respondents provide information regarding their organizational size classification. For example, the notice may ask respondents to

identify whether they are small businesses; HUBZone small businesses; service-disabled, veteran-owned small businesses; 8(a) small businesses; veteran-owned small businesses; woman-owned small businesses; or small disadvantaged businesses in order to determine the appropriate acquisition method, including whether a set-aside is possible. However, such a notice shall not be used solely to determine the size classification of respondents for a proposed non-R & D acquisition. In such instances, a “Small Business Sources Sought” notice may be used—see *319.202–2*, in lieu of the procedures in this section.

(iv) OPDIVs shall follow the standard HHS instructions for completing a Sources Sought notice. The Contracting Officer shall post the notice in FedBizOpps by selecting and completing a Sources Sought notice. The template for the notice is available on the ASFR/OGAPA/DA Internet Web site. 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.

(v) In instances where a sufficient number of sources has not been identified to compete for an R & D project, OPDIVs may use the procedures specified in *305.205*, including the issuance of an “R & D Sources Sought” notice, as appropriate, in lieu of the procedures in this section.

[74 FR 62398, Nov. 27, 2009]

PART 311—DESCRIBING AGENCY NEEDS

Subpart 311.70—Section 508 Accessibility Standards

Sec.

311.7000 Defining electronic information technology requirements.