

## SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

### PART 305—PUBLICIZING CONTRACT ACTIONS

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305.502 Authority.

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

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

#### Subpart 305.2—Synopsis of Proposed Contract Actions

##### 305.202 Exceptions.

(b) When the Contracting Officer deems an advance notice is not appropriate or reasonable, the Contracting Officer shall prepare a memorandum citing all pertinent facts and details and send it through appropriate acquisition channels, including the HCA, to Associate DAS for Acquisition requesting an exception to synopsis. The Associate DAS for Acquisition shall review the request and decide whether an exception is appropriate and reasonable. If it is, the Associate DAS for Acquisition shall take the necessary coordinating actions required by *FAR* 5.202(b). ASFR/OGAPA/DA shall promptly notify the contracting office of the Associate DAS for Acquisition's determination on the request.

##### 305.205 Special situations.

(a) An OPDIV may issue an advance notice, entitled "Research and Development Sources Sought," in Federal Business Opportunities (FedBizOpps), in accordance with the requirements of *FAR* 5.205(a). The primary purpose of an R & D Sources Sought notice is to identify all potential sources, regard-

less 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 possible solutions. In the latter instance, a Request for Information (RFI) may be used—see *FAR* 15.201(e) and 315.201(e).

(1) When using an R & D 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—

(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.

(2) While not the primary intent of an R & D Sources Sought notice, in addition to seeking information regarding all potential qualified R & D 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; Historically Underutilized Business (HUB) Zone 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

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notice shall not be used solely to determine the size classification of respondents for a proposed 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.

(3) OPDIVs shall follow the standard HHS instructions for completing an R & D 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.

(4) In instances where a sufficient number of sources has not been identified to compete for a non-R & D project, an OPDIV may use the procedures specified in 310.001, including the issuance of a “Sources Sought” notice, as appropriate, in lieu of the procedures in this section.

### Subpart 305.3—Synopsis of Contract Awards

#### 305.303 Announcement of contract awards.

(a) *Public announcement.* The Contracting Officer shall report awards over \$3.5 million, not otherwise exempt under FAR 5.303, to the Office of the Assistant Secretary for Legislation (OASL) (Congressional Liaison). The Contracting Officer shall e-mail a copy of the contract or award document face page to [grantfax@hhs.gov](mailto:grantfax@hhs.gov) prior to the day of award or in sufficient time to allow OASL to make an announcement

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by 5 p.m. Washington, DC time on the day of award.

[75 FR 21510, Apr. 26, 2010]

### Subpart 305.5—Paid Advertisements

#### 305.502 Authority.

The Contracting Officer may advertise or place notices in newspapers and periodicals to announce that the contracting office is seeking proposals, quotations, or bids, as appropriate.

### PART 306—COMPETITION REQUIREMENTS

#### Subpart 306.2—Full and Open Competition After Exclusion of Sources

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306.202 Establishing or maintaining alternative sources.

#### Subpart 306.3—Other Than Full and Open Competition

306.302 Circumstances permitting other than full and open competition.

306.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

306.302-7 Public interest.

306.303 Justifications.

306.303-1 Requirements.

306.304 Approval of the justification.

#### Subpart 306.5—Competition Advocates

306.501 Requirement.

306.502 Duties and responsibilities.

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

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

#### Subpart 306.2—Full and Open Competition After Exclusion of Sources

#### 306.202 Establishing or maintaining alternative sources.

(a) The reference to the agency head in FAR 6.202 (a) shall mean the appropriate Competition Advocate (CA) cited in 306.501.

(b)(1) The Contracting Officer shall prepare the required determination and