

310.001

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

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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.

Health and Human Services

311.7001

311.7001 Section 508 accessibility standards for HHS Web site content and communication materials.

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

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

Subpart 311.70—Section 508 Accessibility Standards

311.7000 Defining electronic information technology requirements.

HHS staff that define agency needs for EIT products and services, including EIT deliverables such as electronic documents and reports, and perform market research to meet those needs, shall document EIT requirements, identify the applicable Section 508 accessibility standards, and document the market research. OPDIVs may develop procedures for these activities, based on the level of agency investment and risk, and shall ensure any procedures developed are in conformance with *FAR Part 10*. Procedures for defining EIT requirements may, but are not required to, include the use of the Buy Accessible Wizard (<http://www.buyaccessible.gov>), managed by GSA, or other Federal agency tools.

311.7001 Section 508 accessibility standards for HHS Web site content and communications materials.

(a) Section 508 of the Rehabilitation Act of 1973 [29 U.S.C. 794(d)], as amended by the Workforce Investment Act of 1998, (Section 508) specifies the accessibility standards that apply to all new solicitations and new or existing contracts or orders, regardless of dollar amount, for communications products and services that require a contractor or consultant to produce content in any format that is specifically intended for publication on, or delivery via, an HHS-owned or -funded Web site.

(b) Accordingly, before forwarding a request to the contracting/ordering office for the acquisition of communications products and services, including content in any format, such as reports, documents, charts, posters, presentations (such as Microsoft PowerPoint), or video material that is specifically intended for publication on, or delivery via, an HHS-owned or -funded Web site, the Project Officer

shall consult with the OPDIV/STAFF Division (DIV) Section 508 Official or Coordinator, as necessary, to determine the applicability of Section 508, identify applicable Section 508 accessibility standards, and resolve any related issues.

(c) Based on those discussions, the Project Officer shall provide a statement in the AP (or other acquisition request document)—*see 307.7101*, as to the applicability of Section 508. If Section 508 applies to an acquisition, the Project Officer shall include the following “HHS Section 508 Accessibility Standards Notice” language in a separate, clearly designated section of the SOW/PWS, and any additional information applicable to the acquisition’s Section 508 accessibility standards [e.g., the list of applicable accessibility standards of the Architectural and Transportation Barriers Compliance Board (Access Board) Final Rule (36 CFR Part 1194)]. If an AP does not address these issues, and it appears an acquisition involves Section 508, or if the discussion of Section 508 applicability to the acquisition is inadequate or incomplete, the Contracting Officer shall request that the Project Officer modify the AP accordingly.

HHS SECTION 508 ACCESSIBILITY STANDARDS NOTICE (SEPTEMBER 2009)

This contract is subject to Section 508 of the Rehabilitation Act (the Act) of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998, and the Architectural and Transportation Barriers Compliance Board (Access Board) Electronic and Information Accessibility Provisions (36 CFR Part 1194). Section 508 of the Act requires that, unless an exception applies, all communications products and services that require a contractor or consultant to produce content in any format that is specifically intended for publication on, or delivery via, a Federally owned or Federally funded Web site permit the following:

(1) Federal employees with disabilities to have access to and use information and data that is comparable to the access and use of information and data by Federal employees who are not individuals with disabilities.

(2) Members of the public with disabilities seeking information or services from a Federal agency to have access to and use of information and data that is comparable to the access and use of information and data by members of the public who are not individuals with disabilities.

NOTE: Information about Section 508 of the Act is available at <http://www.section508.gov/>. The complete text of Section 508 can be accessed at <http://www.access-board.gov/sec508/provisions.htm>.

Accordingly, regardless of format, all Web content or communications materials specifically produced for publication on, or delivery via, HHS Web sites, including text, audio, or video, under this contract shall conform to applicable Section 508 accessibility standards. Remediation of any materials that do not comply with the applicable accessibility standards of 36 CFR Part 1194 as set forth herein shall be the responsibility of the Contractor.

The following Section 508 accessibility standards apply to the content or communications material identified in this SOW or PWS:

NOTE: The Project Officer shall list the applicable accessibility standards of the Access Board Final Rule (36 CFR Part 1194) (e.g., “36 CFR 1194.21(a)–(j).” Most Web-based text and communication must meet the accessibility standards in 36 CFR 1194.22, “Web-based intranet and Internet information and applications.” Additionally, 36 CFR 1194.41, “Information, documentation and support,” and 36 CFR 1194.24 “Video and multimedia products” apply to all written, graphical, or broadcast video materials or products produced for HHS, including training. 36 CFR 1194.41(c) specifies that support services for products shall accommodate the communication needs of end-users with disabilities.

PART 312—ACQUISITION OF COMMERCIAL ITEMS

Subpart 312.1—Acquisition of Commercial Items—General

Sec.
312.101 Policy

Subpart 312.2—Special Requirements for the Acquisition of Commercial Items

312.202(d) Market research and description of agency need.

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

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Subpart 312.1—Acquisition of Commercial Items—General

312.101 Policy.

(a) It is HHS policy to leverage its buying power, reduce acquisition administrative costs, and develop long-term, mutually beneficial partnerships with best-in-class providers of products and services. Accordingly, HHS has implemented a Strategic Sourcing Program through which it awards BPAs or other contract vehicles to achieve savings for commercial items and services across HHS and make the acquisition process more efficient. OPDIVs shall use HHS’ strategic sourcing vehicles to the maximum extent possible—see the HHS strategic sourcing portion of the ASFR/OGAPA/DA intranet site for further information.

Subpart 312.2—Special Requirements for the Acquisition of Commercial Items

312.202(d) Market research and description of agency need.

Whenever an OPDIV/STAFFDIV requires EIT products and services subject to Section 508 of the Rehabilitation Act of 1973, as amended, commercially available products and services shall be acquired to the maximum extent possible while ensuring Section 508 compliance. Consistent with paragraph 4.3.1 of the HHS Section 508 policy—see Section 508 policy on the HHS Office on Disability Web site, if products and services are commercially available that meet some but not all of the applicable Section 508 accessibility standards, and no commercially available products or services meet all of the applicable Section 508 accessibility standards, an OPDIV/STAFFDIV shall acquire the products and services that best meet the applicable Section 508 accessibility standards. Commercial nonavailability exception determinations for EIT products and services that do not meet some or all of the applicable Section 508 accessibility standards shall be processed in accordance with 339.203.