

## 313.501

OPDIV designates. The fiscal or other paying officer shall use the signed document, invoice, *etc.*, as the basis for payment. Alternatively, OPDIVs may use electronic methods to document, and transmit to the paying office, the receipt, inspection, and acceptance of items or services for payment purposes, provided such methods are authorized in local fiscal procedures. Contracting offices shall establish procedures to ensure that funds are available prior to placement of orders.

### Subpart 313.5—Test Program for Certain Commercial Items

#### 313.501 Special documentation requirements.

##### (a)(1)

(i) The justification requirements of *306.303-1(b)* and *306.303-1(b)(1) through (b)(4)* apply to proposed noncompetitive acquisitions placed under *FAR Subpart 13.5*.

(ii) The HHS standard format for JOFOCs cited in *306.303-1(b)(1)* shall be used to support noncompetitive acquisitions in excess of the simplified acquisition threshold placed under *FAR Subpart 13.5*.

(iii) The certification, concurrence, and approval requirements cited in *306.304* for JOFOCs apply to applicable noncompetitive acquisitions placed under *FAR Subpart 13.5*.

##### (2)

(i) The Contracting Officer shall exercise this approval authority unless a higher approval level is required by OPDIV procedures.

(ii) The CAs are listed in *306.501*. This approval authority is not delegable.

(iii) The CA shall exercise this approval authority, except where the individual designated as the competition advocate does not meet the requirements of *FAR 6.304(a)(3)(ii)*. This approval authority is not delegable.

(iv) The HHS SPE is the Associate DAS for Acquisition.

## PART 314—SEALED BIDDING

### Subpart 314.1—Use of Sealed Bidding

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314.103 Policy.

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### Subpart 314.2—Solicitation of Bids

314.202 General rules for solicitation of bids.  
314.202-7 Facsimile bids.

### Subpart 314.4—Opening of Bids and Award of Contract

314.404 Rejection of bids.  
314.404-1 Cancellation of invitations after opening.  
314.407 Mistakes in bids.  
314.407-3 Other mistakes disclosed before award.  
314.407-4 Mistakes after award.

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

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

### Subpart 314.1—Use of Sealed Bidding

#### 314.103 Policy.

EIT products and services, including EIT deliverables such as electronic documents and reports, acquired using sealed-bid procedures shall comply with Section 508 of the Rehabilitation Act of 1973, as amended. Consistent with paragraph 4.3.1 of the HHS Section 508 policy—*see* Section 508 policy on HHS Office of Disability Web site, if products and services, including commercially available items, 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*.

### Subpart 314.2—Solicitation of Bids

#### 314.202 General rules for solicitation of bids.

##### 314.202-7 Facsimile bids.

(c) If the HCA (non-delegable) determines that the contracting activity will allow use of facsimile bids and proposals, the HCA shall prescribe internal procedures, in accordance with the

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*FAR 14.202-7*, to ensure uniform processing and control.

### Subpart 314.4—Opening of Bids and Award of Contract

#### 314.404 Rejection of bids.

##### 314.404-1 Cancellation of invitations after opening.

(c) The HCA or CCO (non-delegable) shall make the agency head determinations specified in *FAR 14.404-1*.

#### 314.407 Mistakes in bids.

##### 314.407-3 Other mistakes disclosed before award.

(e) The CCO (non-delegable) has the authority to make determinations under paragraphs (a), (b), (c), and (d) of *FAR 14.407-3*.

(f) OGC-GLD shall concur in each proposed determination.

(i) The CCO shall submit directly to OGC-GLD cases in which the evidence is not clear and convincing or is otherwise doubtful.

#### 314.407-4 Mistakes after award.

(c) The HCA or the CCO (non-delegable), in consultation with OGC-GLD, has the authority to make administrative determinations in connection with mistakes in bid alleged after award.

(d) OGC-GLD shall concur in each proposed determination.

## PART 315—CONTRACTING BY NEGOTIATION

### Subpart 315.2—Solicitation and Receipt of Proposals and Information

Sec.

315.201 Exchanges with industry before receipt of proposals.

315.204-5 Part IV—Representations and instructions.

315.208 Submission, modification, revision, and withdrawal of proposals.

315.209 Solicitation provisions and contract clauses.

#### Subpart 315.3—Source Selection

315.303-70 Policy.

315.304 Evaluation factors and significant subfactors.

315.305 Proposal evaluation.

315.306 Exchanges with offerors after receipt of proposals.

315.307 Proposal revisions.

315.370 Finalization of details with the selected source.

315.371 Contract preparation and award.

315.372 Preparation of negotiation memorandum.

#### Subpart 315.4—Contract Pricing

315.404 Proposal analysis.

315.404-2 Information to support proposal analysis.

315.404-4 Profit.

#### Subpart 315.6—Unsolicited Proposals

315.605 Content of unsolicited proposals.

315.606 Agency procedures.

315.606-1 Receipt and initial review.

315.609 Limited use of data.

#### Subpart 315.70—Acquisition of Electronic Information Technology

315.7000 Section 508 accessibility standards.

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

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

### Subpart 315.2—Solicitation and Receipt of Proposals and Information

#### 315.201 Exchanges with industry before receipt of proposals.

(e)(1) An OPDIV may issue an advance notice, entitled “Request for Information,” in accordance with the requirements of *FAR 15.201(e)*, whenever it requires technical, scientific, and/or business information and input from the marketplace for project planning purposes regarding the availability of existing or potential solutions. An RFI may be used for any type of requirement, but is particularly appropriate for complex projects involving R & D, IT, construction, and other highly technical requirements. An RFI may also be issued to identify issues about the Government’s requirements and the planned acquisition strategy. Use of an RFI generally is appropriate under the following conditions:

(i) It is not clear whether the purpose and performance requirements of a potential or planned project are feasible, achievable, and complete.

(ii) It is not certain that a solution, technical approach, or product needed to accomplish a potential or planned