

## Department of Labor

2909.105

### Subpart 2907.1—Acquisition Plans

#### 2907.105 Contents of written acquisition plans.

The Department of Labor has implemented its acquisition planning system in compliance with FAR 7.1 and internal procedures provided in DLMS 2 section 834. The annual forecast is available for review from: [http://www.apps.dol.gov/contract\\_grant/index.htm](http://www.apps.dol.gov/contract_grant/index.htm).

#### 2907.107 Additional requirements for acquisitions involving bundling.

The FAR requirements for justification, review, and approval of bundling of contract requirements also apply to an order from a Federal Supply Schedule contract, Governmentwide acquisition contracts, or other indefinite-delivery contracts if the requirements consolidated under the order meet the definition of “bundling” at FAR 2.101.

### Subpart 2907.3—Contractor Versus Government Performance

#### 2907.300 Availability of inventory.

The Department of Labor’s FAIR Act inventory of commercial activities performed by federal employees and inherently governmental functions may be accessed on the Internet at: [www.dol.gov](http://www.dol.gov) under “Doing Business with DOL”.

## PART 2908—REQUIRED SOURCES OF SUPPLIES AND SERVICES

### Subpart 2908.4—Federal Supply Schedules

Sec.

2908.404 Using schedules.

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

### Subpart 2908.4—Federal Supply Schedules

#### 2908.404 Using schedules.

Small business considerations, procedures regarding both prime and subcontracting, and clearances specified in DOLAR 2919 apply to GSA Federal Supply Schedule Orders above the simplified acquisition threshold. Procedures to be followed may be modified by the Office of Small Business Pro-

gram as appropriate in order to comply with GSA Federal Supply Schedule procedures (e.g., first tier contracts may be required to report their commercial subcontracting goals to the DOL Office of Small Business Programs).

[69 FR 22991, Apr. 27, 2004]

## PART 2909—CONTRACTOR QUALIFICATIONS

### Subpart 2909.1—Responsible Prospective Contractors

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2909.105 Procedures.

### Subpart 2909.4—Debarment, Suspension, And Ineligibility

2909.402 Policy.

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2909.405-1 Continuation of current contracts.

2909.406 Debarment.

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2909.406-3 Procedures.

2906.407 Suspension.

2909.407-1 General.

### Subpart 2909.5—Organizational and Consultant Conflicts of Interest

2909.503 Waiver.

2909.506 Procedures.

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

SOURCE: 69 FR 22991, Apr. 27, 2004, unless otherwise noted.

### Subpart 2909.1—Responsible Prospective Contractors

#### 2909.105 Procedures.

Before awarding a contract, the contracting officer must make a written determination of the otherwise successful bidder’s/offeror’s responsibility in accordance with FAR 9.105. In addition to past performance information, the contracting officer must insure that the proposed contractor, and any subcontractor representing more than \$25,000 in goods or services, does not appear in the “List of Parties Excluded from Federal Procurement” (available on the Internet at [www.epls.gov](http://www.epls.gov)). In addition, contracting officers should base

their determination of contractor responsibility on a review of the company's "Summary or Financial Report" from Dun & Bradstreet (available on the Internet for a fee at <http://www.dnb.com/>).

### **Subpart 2909.4—Debarment, Suspension, and Ineligibility**

#### **2909.402 Policy.**

(a) This subpart prescribes DOL policies and procedures governing the debarment and suspension of contractors, the listing of debarred and suspended contractors, contractors declared ineligible (see FAR 9.403) and distribution of the list. This subpart does not apply to Department of Labor debarments or suspensions issued for Davis-Bacon Act and Davis-Bacon Related Act violations, Service Contract Act violations, Affirmative Action/Equal Employment Opportunity violations, or violations under other statutes administered by the Department of Labor.

(b) *Contracting activity officials shall have the following responsibilities.* (1) Heads of contracting activity (HCA) shall:

(i) Provide an effective system to ensure that contracting staffs consult the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs" at <http://epls.arnet.gov/> before soliciting offers, awarding or extending contracts, or consenting to sub-contract.

(ii) Consider debarment or suspension of a contractor when cause, as defined under FAR 9.406-2 for debarment and FAR 9.407-2 for suspension, is shown. Contracting officers should consult with their appropriate legal counsel before making a decision to initiate debarment or suspension proceedings. If a determination is made that available facts do not justify beginning debarment or suspension proceedings, the file should be documented accordingly. This determination is subject to reconsideration if warranted by new information.

(iii) When the decision is made to initiate debarment and/or suspension of a contractor, the Senior Procurement Executive must prepare a notice in accordance with FAR 9.406-3(c) or FAR 9.407-3(c). The draft notice, along with

the administrative file containing all relevant facts and analysis, must be forwarded to the Senior Procurement Executive, as the debarring and suspending official, following review by the activity's legal counsel.

(2) The Senior Procurement Executive shall:

(i) Review the notice and administrative file for sufficiency and provide for review by other DOL officials as considered appropriate;

(ii) In accordance with FAR 9.406-3(c) or FAR 9.407-3(c), if it is determined that action is warranted, give the contractor prompt notice of the proposed debarment or suspension;

(iii) Direct additional fact-finding as necessary when material facts are in dispute;

(iv) Notify the contractor and any affiliates involved of the final decision to debar or suspend, including a decision not to debar or suspend, in accordance with FAR 9.406-3(c) and FAR 9.407-3(c);

(v) Be responsible for accomplishing the actions required in FAR 9.404(c) within five working days after debarring or suspending a contractor or modifying or rescinding such an action;

(vi) Maintain Department-wide records of debarred or suspended contractors in accordance with FAR 9.404.

#### **2909.405 Effect of listing.**

(a) Contractors debarred, suspended, or proposed for debarment are excluded from receiving contracts, and agencies must not solicit offers from, award contracts to, or consent to subcontract with these organizations, unless the HCA determines in writing that there is a compelling reason for such action and the Assistant Secretary for Administration and Management approves such determinations.

(b) Bids received from any listed contractor in response to an invitation for bids must be entered on the abstract of bids, and rejected unless the HCA determines in writing that there is a compelling reason to consider the bid and the Assistant Secretary for Administration and Management approves such action.

(c) Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive range, nor