

disclosure exemption under the Freedom of Information Act. If the contractor asserts within 7 calendar days, to the Government official who posted the information, that some of the information posted to the non-public segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information Act procedures, prior to reposting the releasable information.

[48 FR 42142, Sept. 19, 1983, as amended at 75 FR 14066, Mar. 23, 2010; 77 FR 201, Jan. 3, 2012; 79 FR 24253, Apr. 29, 2014; 84 FR 47866, Sept. 10, 2019]

### **9.105-3 Disclosure of preaward information.**

(a) Except as provided in subpart 24.2, Freedom of Information Act, information (including the preaward survey report) accumulated for purposes of determining the responsibility of a prospective contractor shall not be released or disclosed outside the Government.

(b) The contracting officer may discuss preaward survey information with the prospective contractor before determining responsibility. After award, the contracting officer or, if it is appropriate, the head of the surveying activity or a designee may discuss the findings of the preaward survey with the company surveyed.

(c) Preaward survey information may contain proprietary or source selection information and should be marked with the appropriate legend and protected accordingly (see 3.104-4).

[48 FR 42142, Sept. 19, 1983, as amended at 54 FR 20496, May 11, 1989; 62 FR 232, Jan. 2, 1997; 67 FR 13063, Mar. 20, 2002; 81 FR 58638, Aug. 25, 2016; 82 FR 51530, Nov. 6, 2017]

## **9.106 Preaward surveys.**

### **9.106-1 Conditions for preaward surveys.**

(a) A preaward survey is normally required only when the information on hand or readily available to the contracting officer, including information from commercial sources, is not suffi-

cient to make a determination regarding responsibility. In addition, if the contemplated contract will have a fixed price at or below the simplified acquisition threshold or will involve the acquisition of commercial products or commercial services (see part 12), the contracting officer should not request a preaward survey unless circumstances justify its cost.

(b) When a cognizant contract administration office becomes aware of a prospective award to a contractor about which unfavorable information exists and no preaward survey has been requested, it shall promptly obtain and transmit details to the contracting officer.

(c) Before beginning a preaward survey, the surveying activity shall ascertain whether the prospective contractor is debarred, suspended, or ineligible (see subpart 9.4). If the prospective contractor is debarred, suspended, or ineligible, the surveying activity shall advise the contracting officer promptly and not proceed with the preaward survey unless specifically requested to do so by the contracting officer.

[48 FR 42142, Sept. 19, 1983, as amended at 51 FR 27489, July 31, 1986; 60 FR 48237, Sept. 18, 1995; 61 FR 39201, July 26, 1996; 86 FR 61021, Nov. 4, 2021]

### **9.106-2 Requests for preaward surveys.**

The contracting officer's request to the surveying activity (Preaward Survey of Prospective Contractor (General), SF 1403) shall—

(a) Identify additional factors about which information is needed;

(b) Include the complete solicitation package (unless it has previously been furnished), and any information indicating prior unsatisfactory performance by the prospective contractor;

(c) State whether the contracting office will participate in the survey;

(d) Specify the date by which the report is required. This date should be consistent with the scope of the survey requested and normally shall allow at least 7 working days to conduct the survey; and

(e) When appropriate, limit the scope of the survey.