

basis for rejection of the unsolicited proposal or application.

(k) *Support of proposal.* There is no prescribed format for the program documentation necessary to justify providing assistance. The minimum requirements are that: there be a reasonable basis for acceptance based on the criteria set forth in §§385.50 through 385.52; the rationale for providing support be written, and approvals be obtained as required by MarAd; and, that a copy of the documentation be included in the assistance instrument award file. The rationale for providing assistance may be included in documents required for project approval.

§ 385.34 Responsibility for issuing solicitations for proposals or applications.

(a) It is MarAd policy to favor solicitation of proposals or applications, where discretionary assistance awards are available, in preference to relying on unsolicited proposals, in order to maximize opportunities for open participation by the public in MarAd assistance awards.

(b) The Awards Officer shall be responsible for issuing solicitations, announcements, or the like, which call for the submission of proposals and applications by a certain due date which, if favorably acted upon by MarAd, may result in assistance awards.

§ 385.35 Program opportunity notices.

(a) A program opportunity notice can be used to stimulate the flow of unsolicited proposals or applications when the program objectives cannot be defined sufficiently to prepare a program solicitation.

(b) The program opportunity notice will contain the following, at a minimum:

(1) A number assigned for control and reference purposes;

(2) A brief description of the broad, general technical program or areas needing investigation (generally 50 words or less);

(3) A statement of the principal program objective in possibly funding unsolicited proposals as either:

(i) The acquisition of concepts, property, or services for the direct benefit or use of the Federal Government; or

(ii) The transfer of money, property, or services to a recipient for support or stimulation authorized by Federal statute;

(4) A statement about how unsolicited proposals will be evaluated and accepted:

(i) If the principal program objective is to accomplish a public purpose of support or stimulation, the criteria in §§385.50 through 385.52 shall be applied;

(ii) If the principal program objective is the acquisition of concepts, property, or services for the direct benefit or use of the Federal Government (i.e., procurement), the policy regarding evaluation and acceptance of unsolicited proposals in 41 CFR 9-4.9 shall apply;

(5) Restrictions, if any, as to who may submit proposals;

(6) A contact where additional information may be obtained;

(7) An expiration date which identifies when the program opportunity notice will no longer be current. This date shall not be used as a required common due date for submission of proposals;

(8) A statement that MarAd reserves the right to support or not support, in whole or in part, any or all proposals received;

(9) A statement that MarAd assumes no responsibility for any costs associated with specific proposal preparation if no award is made; but that if an award is made, MarAd will pay its allocable share of bid and proposal expenses as provided for in applicable Federal cost principles;

(10) A statement that proposals submitted pursuant to the notice shall be mailed to the Awards Officer (M-900), Maritime Administration, Room 4885, U.S. Department of Transportation, Washington, DC 20590.

(11) A reference that detailed information concerning assistance policy and procedures is contained in these assistance regulations, 46 CFR part 385;

(12) As much information as possible as to how proposals and applications will be evaluated;

(13) Policies and procedures for patents, data, and copyrights. Proposers have the right to request in advance of or within thirty (30) days after the effective date of award a waiver of all or

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any part of the United States rights in subject inventions.

(c) The program opportunity notice shall be in a format that best reflects the needs of the specific program, for example, letter, booklet, bulletin, or other documents.

(d) The program opportunity notice shall be distributed widely. It may be distributed to industry associations, including small business associations; schools, colleges, and universities; appropriate professional and scientific journals; state, local, and regional governmental organizations; the Commerce Business Daily; other MarAd offices; and individuals and organizations who request copies on a one-time basis.

(e) The submission of innovative methods, approaches or ideas will not be restricted to those problems or technical areas published in the program opportunity notice. Alternatives will be eligible for consideration.

§ 385.36 Public notice of availability of assistance awards.

(a) In order to maximize involvement of prospective recipients in MarAd assistance programs, it is MarAd's policy, wherever possible, to provide timely notice to the public as to the availability of assistance awards.

(b) Early notice regarding legislated grant or other assistance programs will be provided by MarAd to the Office of Management and Budget for publication in the Catalog of Federal Domestic Assistance pursuant to Office of Management and Budget Circular No. A-89. When legislated assistance programs or program objectives which are to be implemented through assistance instruments reach the point where applications or proposals need to be obtained, timely notice of such solicitations will be published in the FEDERAL REGISTER, Commerce Business Daily, trade and professional journals which are widely circulated to state and local governments, and news media, as appropriate to communicate with potentially interested applicants.

(c) When a MarAd assistance project involves making assistance available through prime recipients to subrecipients, such as through states to local governments, prime recipients should provide timely advance notice to sub-

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recipients as to the availability of such assistance, and provide a reasonable time period for subrecipients to prepare applications and secure prerequisite local approvals.

§ 385.37 Requirement for unrestricted solicitations for discretionary assistance awards.

(a) *Policy.* It is MarAd policy to maximize the opportunity for prospective recipients to be considered for assistance awards where eligibility is not prescribed by law. Therefore, when eligibility is not prescribed by law or a final program regulation, and when discretionary assistance awards are selected to accomplish a program objective, applications or proposals will be obtained, wherever practicable, by issuance of a written solicitation. When MarAd initiates the solicitation of applications or proposals, eligibility to be considered for discretionary awards will not be restricted by MarAd to one category of recipients or to a single recipient without adequate basis.

(b) *Justification of restricted eligibility.* Where program legislation explicitly restricts eligibility, e.g., to state governments, no justification is required. When program regulations restrict eligibility beyond the restrictions required by the program legislation, the basis for the restriction shall be set forth in the program rulemaking.

41 CFR 9-3.805-51 shall be used as a guide in preparing the "justification for restricting eligibility." The reasons offered will be evaluated for consistency with the policy in paragraph (a) of this section, MarAd's overall mission, and the objective of maintaining an open and fair system of making assistance awards.

(c) *Approvals.* Justifications of restricted eligibility will be signed by the Grants Officer and will be reviewed by Office of General Counsel for legal sufficiency prior to issuance of the restricted solicitation. The signed justification will be filed in official award file.

§ 385.38 Joint funding.

(a) Pursuant to section 10(c) of the Act, MarAd is authorized to participate