

proposed collection of information. Procedures for the approval may be obtained by contacting the OPDIV reports clearance officer. (See 5 CFR part 1320).

(iv) *Publications*. All projects that will result in contracts which include publications development (print products, electronic bulletin boards, posting on the internet) require review and approval by the Office of the Assistant Secretary for Public Affairs (OASPA). Form HHS-615, Publication Planning and Clearance Request, must be forwarded to OASPA through the OPDIV public affairs officer. Publications are defined in Chapter 5-00-15 of the Public Affairs Management Manual.

(v) *Public affairs services*. Projects for the acquisition of public affairs services in excess of \$5,000 must be submitted to the Office of the Assistant Secretary for Public Affairs (OASPA) for review and approval on Form HHS-524, Request for Public Affairs Services Contract.

(vi) *Audiovisual*. All projects which will result in contracts which include audiovisuals, regardless of the audio, video, or audiovisual medium employed, require review and approval by the Office of the Assistant Secretary for Public Affairs (OASPA). Form HHS-524A, Publication Planning and Clearance Request, must be forwarded to OASPA through the OPDIV public affairs officer. Audiovisuals are defined in chapter 6-00-15 of the Public Affairs Management Manual.

(vii) *Privacy Act (5 U.S.C. 552a)*. Whenever the Department contracts for the design, development, operation, or maintenance of a system of records on individuals on behalf of the Department to accomplish a departmental function, the Privacy Act is applicable. The program official, after consultation with the activity's Privacy Act Coordinator and the Office of General Counsel, as necessary, shall include a statement in the request for contract as to the applicability of the Act. Whenever an acquisition is subject to the Act, the program official prepares a "system notice" and has it published in the FEDERAL REGISTER. (See HHS Privacy Act regulation, 45 CFR part 5b; FAR subpart 24.1 and subpart 324.1.)

(viii) *Foreign research*. All foreign research contract projects to be conducted in a foreign country and financed by HHS funds (U.S. dollars) must have clearance by the Department of State with respect to consistency with foreign policy objectives. This clearance should be obtained prior to negotiation. Procedures for obtaining this clearance are set forth in the HHS General Administration Manual, Chapter 20-60.

(5) *Identification and disposition of data*. Identification of the data expected to be generated by the acquisition and an indication of whether the data are to be delivered to the Department or to be retained by the contractor is required. The project officer must also include information relative to the use, maintenance, disclosure, and disposition of data. The project officer must include a statement as to whether or not another acquisition, based upon the data generated by the proposed acquisition, is anticipated.

(6) *Government property*. If known, the type of Government property, individual items, and quantities of Government property to be furnished to, or allowed to be acquired by, the resultant contractor should be indicated. The project officer must specify when the Government property is to be made available.

(7) *Special terms and conditions*. Any suggested special terms and conditions not already covered in the statement of work or the applicable contract general provisions is required.

(8) *Justification for other than full and open competition*. If the proposed acquisition is to be awarded using other than full and open competition, a justification prepared in accordance with FAR subpart 6.3 and subpart 306.3 is required.

307.7106 Statement of work.

(a) *General*. A statement of work (SOW) differs from a specification and purchase description primarily in that it describes work or services to be performed in reaching an end result rather than a detailed, well defined description or specification of the end product. The SOW may enumerate or describe the methods (statistical, clinical, laboratory, etc.) that will be used.

However, it is preferable for the offeror to propose the method of performing the work. The SOW should specify the desired results, functions, or end items without telling the offeror what has to be done to accomplish those results unless the method of performance is critical or required for the successful performance of the contract. The SOW should be clear and concise and must completely define the responsibilities of the Government and the contractor. The SOW should be worded so as to make more than one interpretation virtually impossible because it has to be read and interpreted by persons of varied backgrounds, such as attorneys, contracting personnel, cost estimators, accountants, scientists, educators, functional specialists, etc. The SOW must clearly define the obligations of both the contractor and the Government so as to protect the interests of both. Ambiguous statements of work can create unsatisfactory performance, delays, and disputes, and can result in higher costs.

(b) *Term (level of effort) vs. completion work statement.* Careful distinctions must be drawn between term (level of effort) SOWs, which essentially require the furnishing of technical effort and which may include a report thereof, and completion type work statements, which require development of tangible items designed to meet specific performance and/or design characteristics. (See FAR 16.306(d) for distinction).

(1) *Term (or level of effort).* A term or level of effort type SOW is appropriate for research where one seeks to discover the feasibility of later development, or to gather general information. A term or level of effort type SOW may only specify that some number of labor-hours be expended on a particular course of research, or that a certain number of tests be run, without reference to any intended conclusion.

(2) *Completion.* A completion type SOW is appropriate to development work where the feasibility of producing an end item is already known. A completion type SOW may describe what is to be achieved through the contracted effort, such as development of new methods, new end items, or other tangible results.

(c) *Phasing.* Individual research, development, or demonstration projects frequently lie well beyond the present state of the art and entail procedures and techniques of great complexity and difficulty. Under these circumstances, a contractor, no matter how carefully selected, may be unable to deliver the desired result. Moreover, the job of evaluating the contractor's progress is often difficult. Such a contract is frequently phased and often divided into stages of accomplishment, each of which must be completed and approved before the contractor may proceed to the next. Phasing makes it necessary to develop methods and controls, including reporting requirements for each phase of the contract and criteria for evaluation of the report submitted, that will provide, at the earliest possible time, appropriate data for making decisions relative to future phases. A phased contract may include stages of accomplishment such as research, development, and demonstration. Within each phase, there may be a number of tasks which should be included in the SOW. When phases of work can be identified, the SOW will provide for phasing and the request for proposals will require the submission of proposed costs by phases. The resultant contract will reflect costs by phases, require the contractor to identify incurred costs by phases, establish delivery schedules by phase, and require the written acceptance of each phase. The provisions of the Limitation of Cost clause shall apply to the estimated cost of each phase. Contractors shall not be allowed to incur costs for phases which are dependent upon successful completion of earlier phases until written acceptance of the prior work is obtained from the contracting officer.

(d) *Elements of the SOW.* The elements of the SOW will vary with the objective, complexity, size, and nature of the acquisition. In general, it should cover the following matters as appropriate.

(1) *A general description of the required objectives and desired results.* Initially, a broad, nontechnical statement of the nature of the work to be performed. This should summarize the actions to be performed by the contractor and the results that the Government expects.

Health and Human Services

309.403

(2) *Background information helpful to a clear understanding of the requirements and how they evolved.* Include a brief historical summary as appropriate and the relationship to overall program objectives.

(3) *A detailed description of the technical requirements.* A comprehensive description of the work to be performed to provide whatever details are necessary for prospective offerors to submit meaningful proposals.

(4) *Subordinate tasks or types of work.* A listing of the various tasks or types of work (it may be desirable in some cases to indicate that this is not all-inclusive). The degree of task breakout is directly dependent on the size and complexity of the work to be performed and the logical groupings. A single cohesive task should not be broken out merely to conform to a format. Indicate whether the tasks are sequential or concurrent for offeror planning purposes.

(5) *Reference material.* All reference material to be used in the conduct of the project that tells how the work is to be carried out must be identified. Applicability should be explained, and a statement made as to where the material can be obtained.

(6) *Level of effort.* When a level of effort is required, the number and type of personnel required should be stated. If known, the type and degree of expertise should be specified.

(7) *Special requirements.* (as applicable). An unusual or special contractual requirement, which would impact on contract performance, should be included as a separate section.

(8) *Deliverables reporting requirements.* All deliverables and/or reports must be clearly and completely described.

307.7107 Review.

Upon receipt of the RFC, the contracting officer shall review its contents to ensure that all pertinent information has been provided by the program office and that it includes an acceptable SOW. If pertinent information is missing or the SOW is inadequate, the contracting officer shall obtain or clarify the information as soon as possible so that the acquisition schedule can be met. If the program office delays furnishing the information or

clarification, the contracting officer should notify the head of the sponsoring program office, in writing, of the possible slippage in the acquisition schedule and the need for an expeditious remedy. The contracting officer should also notify the chief of the contracting office. A program office's or project officer's continued failure to adhere to agreed on milestones should also be reported to the head of the contracting activity.

PART 309—CONTRACTOR QUALIFICATIONS

Subpart 309.4—Debarment, Suspension, and Ineligibility

Sec.

309.403 Definitions.

309.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

309.405 Effect of listing.

309.406 Debarment.

309.406-3 Procedures.

309.407 Suspension.

309.407-3 Procedures.

309.470 Reporting of suspected causes for debarment, suspension, or the taking of evasive actions.

309.470-1 Situations where reports are required.

309.470-2 Contents of reports.

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Subpart 309.4—Debarment, Suspension, and Ineligibility

309.403 Definitions.

Acquiring agency's head or designee, as used in the FAR, shall mean, unless otherwise stated in this subpart, the head of the contracting activity. Acting in the capacity of the acquiring agency's head, the head of the contracting activity may make the required justifications or determinations, and take the necessary actions, specified in FAR 9.405, 9.406 and 9.407 for his or her respective activity, but only after obtaining the written approval of the debarring or suspending official, as the case may be.

Debarring official means the Assistant Secretary for Management and Budget, or his/her designee.