

**8.1102 Presolicitation requirements.**

(a) Except as specified in 8.1102(b), before preparing solicitations for leasing of motor vehicles, contracting officers shall obtain from the requiring activity a written certification that—

(1) The vehicles requested are of maximum fuel efficiency and minimum body size, engine size, and equipment (if any) necessary to fulfill operational needs, and meet prescribed fuel economy standards;

(2) The head of the requiring agency, or a designee, has certified that the requested passenger automobiles (sedans and station wagons) larger than Type IA, IB, or II (small, subcompact, or compact) are essential to the agency's mission;

(3) Internal approvals have been received; and

(4) The General Services Administration has advised that it cannot furnish the vehicles.

(b) With respect to requirements for leasing motor vehicles for a period of less than 60 days, the contracting officer need not obtain the certification specified in 8.1102(a)—

(1) If the requirement is for type 1A, 1B, or II vehicles, which are by definition fuel efficient; or

(2) If the requirement is for passenger vehicles larger than 1A, 1B, or II, and the agency has established procedures for advance approval, on a case-by-case basis, of such requirements.

(c) Generally, solicitations shall not be limited to current-year production models. However, with the prior approval of the head of the contracting office, solicitations may be limited to current models on the basis of overall economy.

[48 FR 42129, Sept. 19, 1983, as amended at 55 FR 25527, June 21, 1990]

**8.1103 Contract requirements.**

Contracting officers shall include the following items in each contract for leasing motor vehicles:

(a) Scope of contract.

(b) Method of computing payments.

(c) A listing of the number and type of vehicles required, and the equipment and accessories to be provided with each vehicle.

(d) Responsibilities of the contractor or the Government for furnishing gasoline, motor oil, antifreeze, and similar items.

(e) Unless it is determined that it will be more economical for the Government to perform the work, a statement that the contractor shall perform all maintenance on the vehicles.

(f) A statement as to the applicability of pertinent State and local laws and regulations, and the responsibility of each party for compliance with them.

(g) Responsibilities of the contractor or the Government for emergency repairs and services.

**8.1104 Contract clauses.**

Insert the following clauses in solicitations and contracts for leasing of motor vehicles, unless the motor vehicles are leased in foreign countries:

(a) The clause at 52.208-4, Vehicle Lease Payments.

(b) The clause at 52.208-5, Condition of Leased Vehicles.

(c) The clause at 52.208-6, Marking of Leased Vehicles.

(d) A clause substantially the same as the clause at 52.208-7, Tagging of Leased Vehicles, for vehicles leased over 60 days (see subpart B of 41 CFR 102-34).

(e) The provisions and clauses prescribed elsewhere in the FAR for solicitations and contracts for supplies when a fixed-price contract is contemplated, but excluding—

(1) The clause at 52.211-16, Variation in Quantity;

(2) The clause at 52.232-1, Payments;

(3) The clause at 52.222-20, Walsh-Healey Public Contracts Act; and

(4) The clause at 52.246-16, Responsibility for Supplies.

[48 FR 42129, Sept. 19, 1983, as amended at 51 FR 19714, May 30, 1986; 60 FR 48237, Sept. 18, 1995; 68 FR 28080, May 22, 2003]

## PART 9—CONTRACTOR QUALIFICATIONS

Sec.  
9.000 Scope of part.

**Subpart 9.1—Responsible Prospective Contractors**

- 9.100 Scope of subpart.
- 9.101 Definition.
- 9.102 Applicability.
- 9.103 Policy.
- 9.104 Standards.
  - 9.104-1 General standards.
  - 9.104-2 Special standards.
  - 9.104-3 Application of standards.
  - 9.104-4 Subcontractor responsibility.
- 9.105 Procedures.
  - 9.105-1 Obtaining information.
  - 9.105-2 Determinations and documentation.
  - 9.105-3 Disclosure of preaward information.
- 9.106 Preaward surveys.
  - 9.106-1 Conditions for preaward surveys.
  - 9.106-2 Requests for preaward surveys.
  - 9.106-3 Interagency preaward surveys.
  - 9.106-4 Reports.
- 9.107 Surveys of nonprofit agencies serving people who are blind or have other severe disabilities under the Javits-Wagner-O'Day (JWOD) Program.

**Subpart 9.2—Qualifications Requirements**

- 9.200 Scope of subpart.
- 9.201 Definitions.
- 9.202 Policy.
- 9.203 QPL's, QML's, and QBL's.
- 9.204 Responsibilities for establishment of a qualification requirement.
- 9.205 Opportunity for qualification before award.
- 9.206 Acquisitions subject to qualification requirements.
  - 9.206-1 General.
  - 9.206-2 Contract clause.
  - 9.206-3 Competition.
- 9.207 Changes in status regarding qualification requirements.

**Subpart 9.3—First Article Testing and Approval**

- 9.301 Definition.
- 9.302 General.
- 9.303 Use.
- 9.304 Exceptions.
- 9.305 Risk.
- 9.306 Solicitation requirements.
- 9.307 Government administration procedures.
- 9.308 Contract clauses.
  - 9.308-1 Testing performed by the contractor.
  - 9.308-2 Testing performed by the Government.

**Subpart 9.4—Debarment, Suspension, and Ineligibility**

- 9.400 Scope of subpart.
- 9.401 Applicability.
- 9.402 Policy.

- 9.403 Definitions.
- 9.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- 9.405 Effect of listing.
  - 9.405-1 Continuation of current contracts.
  - 9.405-2 Restrictions on subcontracting.
- 9.406 Debarment.
  - 9.406-1 General.
  - 9.406-2 Causes for debarment.
  - 9.406-3 Procedures.
  - 9.406-4 Period of debarment.
  - 9.406-5 Scope of debarment.
- 9.407 Suspension.
  - 9.407-1 General.
  - 9.407-2 Causes for suspension.
  - 9.407-3 Procedures.
  - 9.407-4 Period of suspension.
  - 9.407-5 Scope of suspension.
- 9.408 Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.
- 9.409 Solicitation provision and contract clause.

**Subpart 9.5—Organizational and Consultant Conflicts of Interest**

- 9.500 Scope of subpart.
- 9.501 Definition.
- 9.502 Applicability.
- 9.503 Waiver.
- 9.504 Contracting officer responsibilities.
- 9.505 General rules.
  - 9.505-1 Providing systems engineering and technical direction.
  - 9.505-2 Preparing specifications or work statements.
  - 9.505-3 Providing evaluation services.
  - 9.505-4 Obtaining access to proprietary information.
- 9.506 Procedures.
- 9.507 Solicitation provisions and contract clause.
  - 9.507-1 Solicitation provisions.
  - 9.507-2 Contract clause.
- 9.508 Examples.

**Subpart 9.6—Contractor Team Arrangements**

- 9.601 Definition.
- 9.602 General.
- 9.603 Policy.
- 9.604 Limitations.

**Subpart 9.7—Defense Production Pools and Research and Development Pools**

- 9.701 Definition.
- 9.702 Contracting with pools.
- 9.703 Contracting with individual pool members.

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42142, Sept. 19, 1983, unless otherwise noted.

### 9.000 Scope of part.

This part prescribes policies, standards, and procedures pertaining to prospective contractors' responsibility; debarment, suspension, and ineligibility; qualified products; first article testing and approval; contractor team arrangements; defense production pools and research and development pools; and organizational conflicts of interest.

## Subpart 9.1—Responsible Prospective Contractors

### 9.100 Scope of subpart.

This subpart prescribes policies, standards, and procedures for determining whether prospective contractors and subcontractors are responsible.

### 9.101 Definition.

*Surveying activity*, as used in this subpart, means the cognizant contract administration office or, if there is no such office, another organization designated by the agency to conduct preaward surveys.

[48 FR 42142, Sept. 19, 1983, as amended at 66 FR 2128, Jan. 10, 2001]

### 9.102 Applicability.

(a) This subpart applies to all proposed contracts with any prospective contractor that is located—

(1) In the United States or its outlying areas; or

(2) Elsewhere, unless application of the subpart would be inconsistent with the laws or customs where the contractor is located.

(b) This subpart does not apply to proposed contracts with (1) foreign, State, or local governments; (2) other U.S. Government agencies or their instrumentalities; or (3) agencies for the blind or other severely handicapped (see subpart 8.7).

[48 FR 42142, Sept. 19, 1983, as amended at 68 FR 28080, May 22, 2003]

### 9.103 Policy.

(a) Purchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only.

(b) No purchase or award shall be made unless the contracting officer makes an affirmative determination of responsibility. In the absence of information clearly indicating that the prospective contractor is responsible, the contracting officer shall make a determination of nonresponsibility. If the prospective contractor is a small business concern, the contracting officer shall comply with subpart 19.6, Certificates of Competency and Determinations of Responsibility. (If Section 8(a) of the Small Business Act (15 U.S.C. 637) applies, see subpart 19.8.)

(c) The award of a contract to a supplier based on lowest evaluated price alone can be false economy if there is subsequent default, late deliveries, or other unsatisfactory performance resulting in additional contractual or administrative costs. While it is important that Government purchases be made at the lowest price, this does not require an award to a supplier solely because that supplier submits the lowest offer. A prospective contractor must affirmatively demonstrate its responsibility, including, when necessary, the responsibility of its proposed subcontractors.

[48 FR 42142, Sept. 19, 1983, as amended at 61 FR 67410, Dec. 20, 1996; 62 FR 44819, Aug. 22, 1997; 62 FR 48921, Sept. 17, 1997; 65 FR 80264, Dec. 20, 2000; 66 FR 17755, Apr. 3, 2001; 66 FR 66986, 66989, Dec. 27, 2001]

### 9.104 Standards.

#### 9.104-1 General standards.

To be determined responsible, a prospective contractor must—

(a) Have adequate financial resources to perform the contract, or the ability to obtain them (see 9.104-3(a));

(b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;

(c) Have a satisfactory performance record (see 48 CFR 9.104-3(b) and part 42, subpart 42.15). A prospective contractor shall not be determined responsible or nonresponsible solely on the