

the proposal is not disclosed outside of MarAd. The Awards Officer has responsibility for ensuring that proposal reviewers are free of any direct affiliation with the individual(s) or institution submitting the proposal. MarAd policy on the use of information contained in proposals is to use such information only for evaluation purposes, except to the extent such information is generally available to the public, is already the property of the Government, or is available to the Government without restriction. Accordingly, if a proposal contains information the proposer wishes to protect, the proposer shall mark the cover page of the proposal with the following Notice:

NOTICE: The data contained in pages ____ of this proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential commercial or financial information, and such data shall be used or disclosed only for evaluation purposes: *Provided*, That if this proposer receives an award as a result of or in connection with the submission of this proposal the Government shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the proposer.

MarAd shall ensure that all copies of the proposal carry the above Notice, and that it is not disclosed outside MarAd, except with the consent of the proposer.

(h) *Criteria* for acceptance of an unsolicited proposal are those listed in §§ 385.50 through 385.52. If an unsolicited proposal fails to meet any of the criteria, the proposer will be notified by the Awards Officer in accordance with paragraph (j) of this section.

(i) *Funding determination*. The responsibility for deciding funding availability rests solely with the Grants Officer and will not be considered by the proposal reviewers.

(j) *Nonsupport of proposal*. If the proposal does not offer sufficient technical merit or program value; is not relevant to the accomplishment of a public purpose authorized by MarAd program legislation; or if funds are not available; the proposal will be returned to the proposer, if the proposer so requests. The Awards Officer shall prepare a letter to the proposer which sets forth the

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

§ 385.36

46 CFR Ch. II (10-1-06 Edition)

(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

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