

## Department of Veterans Affairs

809.106-1

necessary information for placing delivery orders with the contractors for the above FSS Groups.

[49 FR 12593, Mar. 29, 1984, as amended at 63 FR 69219, Dec. 16, 1998]

### PART 809—CONTRACTOR QUALIFICATIONS

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AUTHORITY: 38 U.S.C. 210, 40 U.S.C. 486(c) and 42 U.S.C. 2453(c).

SOURCE: 49 FR 12594, Mar. 29, 1984, unless otherwise noted.

#### Subpart 809.1—Responsible Prospective Contractors

##### 809.104-2 Special standards.

Standards applicable to subsistence will be established based on preaward surveys prescribed by 809.106-1.

##### 809.106-1 Conditions for preaward surveys.

(a) Preaward on-site evaluation will be made for contracts covering the products and services of bakeries, dairies, ice cream plants and laundry and dry cleaning activities. A committee under the direction of the contracting officer and composed of representatives of the medical service and/or using service chiefs or designees appointed by the facility director will inspect and evaluate the plant, personnel, equipment and processes of the prospective contractor. Prior to any inspection, the contracting officer will inquire whether the plant has been recently inspected and approved by another Department of Veterans Affairs facility or Federal agency. Approved inspection reports of another Department of Veterans Affairs facility will be accepted by Department of Veterans Affairs facilities and approved inspection reports of other Federal agencies may be accepted as satisfactory evidence that the facilities of the bidder meet the requirements of the Invitation for Bid, provided inspection was made not more than 6 months prior to the proposed contract period.

(b) Preaward on-site evaluation of dairy plants will not be made by the Department of Veterans Affairs when acceptable bids are received from suppliers of those dairy products designated as No. 1 in the Federal Specifications. Suppliers must have received, prior to opening of bids, a pasteurized milk rating of 90 percent or more for the type of product being supplied, on the basis of the U.S. Public Health Service milk ordinance and code. Such rating must be current (not over 2 years old), and will have been determined by certified State milk sanitation rating officer in the State of origin or by the Public Health Service and will continue at 90 percent or more during the period of the contract. Firms not so rated may only offer dairy products designated as No. 2 in the Federal Specifications. Award to such firms may be made only after completion of a preaward on-site evaluation conducted in accordance with paragraph (a) of this section.

(c) Prior to any open market purchase of fresh bakery products (such as

pies, cakes, cookies), the plant where these products are produced or prepared will be inspected and evaluated as provided in paragraph (a) of this section. On-site evaluation will be made at least annually and recorded on VA Form 10-2079, Inspection Report of Bakery.

[49 FR 12594, Mar. 29, 1984, as amended at 54 FR 30044, July 18, 1989; 54 FR 40063, Sept. 29, 1989]

### Subpart 809.2—Qualified Products

#### 809.206 Acquiring qualified products.

(a) Federal Qualified Products Lists are lists of products qualified under the applicable Federal or interim Federal specification. Such lists may be used as authorized by the appropriate administration or staff office. Requests to receive copies of existing Federal Qualified Products Lists will be submitted to the Deputy Assistant Secretary for Acquisition and Materiel Management (91) for transmittal to General Services Administration. Requests to establish a Federal Qualified Products List for a commodity will be submitted to the Deputy Assistant Secretary for Acquisition and Materiel Management (91), supported by one or more of the following justifications:

(1) The time required for testing after award would unduly delay delivery of the supplies being purchased.

(2) The cost of repetitive testing would be excessive.

(3) The tests would require expensive or complicated testing apparatus not commonly available.

(4) The interest of the Government requires assurance, prior to award, that the product is satisfactory for its intended use.

(5) The determination of acceptability would require performance data to supplement technical requirements in the specification.

(b) VA Qualified Products Lists are lists of products qualified by VA under VA specifications or purchase descriptions. Such lists may be established as authorized by the appropriate administration or staff office.

(1) VA Qualified Products Lists will be supported by one or more of the justifications in 809.206(a) or the following:

(i) Where tests result in substantial or repetitive rejections, or

(ii) Where professional requirements of performance, balance, design, or construction cannot economically be developed into clear specifications, and professional judgment is required in determining the acceptability of items meeting VA requirements.

(2) In the event that the requirement for VA Qualified Products List is established for any given product, known suppliers of the type of item required will be notified and given an opportunity to submit samples for inspection, and test based upon guarantee that they will deliver the item to be inspected, provided the item is acceptable. A qualified products list shall not be used as a means of restricting competition to favored suppliers. All suppliers so desiring shall be given an opportunity to have their products tested for acceptability.

(3) Costs involved in the inspection and test will be borne by VA. The supplier will be required to bear the cost of the sample and its transportation to the inspecting point. After inspection, the sample shall be returned to the supplier "as is" unless it is destroyed by inspection or disposed of or retained by VA as authorized by the supplier.

(4) Items which have been accepted for the qualified products list will be subject to constant review for compliance with the applicable specification. Where there is a variance between the specification and item, the supplier shall be requested to furnish an item that conforms to the specification. Failure or inability on the part of the supplier to provide an item that conforms to the specification will be sufficient cause to consider the item unacceptable in response to subsequent invitations.

(5) The acceptance of an item for the qualified products list does not guarantee acceptance in any future purchase, nor does it constitute a waiver of the requirements of the specifications as to acceptance, inspection, testing or other provisions of any future contract involving such item.

(6) Bid invitations covering products which have been included in a qualified products list will include the clause set