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CHAPTER 25. Contractor Responsibility

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25.1 Policy

Goods and services including construction services may be procured only from contractors that affirmatively demonstrate their responsibility including, when necessary, for any proposed subcontractors.

25.2 Responsible Prospective Contractors

To be determined responsible, a prospective contractor must:

1. Have or have the ability to obtain adequate financial resources to perform the contract;
2. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
3. Have the integrity and reliability which will assure good faith performance;
4. Have a satisfactory performance record. A prospective contractor shall not be determined responsible or non-responsible solely on the basis of a lack of relevant performance history;
5. Disclose all Labor Violations (as defined in Section 23.28.6 of this Procurement Manual) by contractor or any affiliated person or entity, including contractor's owners, parent entity, predecessors and subsidiaries ("Affiliated Entities"), that have resulted in any adverse administrative determination, arbitral award or decision, or civil judgment on the merits, or in a settlement or consent decree resolving violations in the three (3) year period preceding the proposed effective date of the contract, and any pending formal charges of Labor Violations against contractor, any Affiliated Entity, or subcontractor that have not yet been settled or otherwise adjudicated, and address to the satisfaction of the Contracting Officer, with such documentation and records as he/she may request, the details of any such violations and corrective measures, if any, taken;
6. Not have engaged in Labor Violations (as defined in Section 23.28.6 of this Manual) in the three (3) year period preceding the proposed effective date of the contract that the Contracting Officer determines constitute(s) an unsatisfactory record of integrity or business ethics, including any Labor Violations engaged in by any Affiliated Entity;
7. Not be the subject of debarment or suspension proceedings commenced by the General Manager pursuant to Chapter 26 of this Procurement Manual; and
8. Include a provision in any subcontract entered into during the course of and in connection with the contract stating the subcontractor shall not engage in any Labor Violations, and shall require that all subcontractors disclose to the contractor all Labor Violations by subcontractor or any affiliated person or entity, including subcontractor's owners, parent entity, predecessors and subsidiaries ("Affiliated Entities"), that have resulted in any adverse administrative determination, arbitral award or decision, or civil judgment on the merits, or in a settlement or consent decree resolving violations in the three (3) year period preceding the proposed effective date of the contract, and any pending formal charges of Labor Violations that have not been settled or otherwise adjudicated and addressed to the satisfaction of the contractor, with such documentation and records as it may request, the details of any such violations and corrective measures, if any, taken.

25.3 Subcontractor Responsibility

Generally, prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors regarding debarred, ineligible, or suspended firms. Determination of prospective subcontractor responsibility may affect the Authority's determination of the prospective prime contractor's responsibility.

The Authority may determine a prospective subcontractor's responsibility when the work to be performed by the subcontractor constitutes a significant part of the overall contract, or if it involves elements where a high level of risk of performance would be unacceptable.

25.4 Determination of Responsibility

The Contracting Officer will award contracts only to prospective contractors that are determined to be responsible with respect to the contract in accordance with the section entitled Responsible Prospective Contractors.

25.5 Pre-Award Surveys

Pre-award surveys may be required when the information on hand or readily available including from commercial sources is not sufficient to make a determination regarding responsibility.

25.6 List of Excluded Parties

In addition to reviewing the information provided by the General Services Administration (“GSA”) and the United States Department of Labor (“DOL”), the General Manager or his designee shall search the DC Courts, and, to the extent available, courts in prospective contractor’s principal place of business, the Federal Bid List, the National Labor Relations Board (“NLRB”) and the Office of Federal Contract Compliance Programs regarding entities that, within the three (3) year period preceding the proposed effective date of the contract, have been: debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule; adjudicated as having committed Labor Violations as defined in section 23.28.6; having admitted Labor Violations in a formal settlement, conciliation agreement, or consent decree; or otherwise declared ineligible from receiving federal contracts, certain subcontracts, and certain federal assistance and benefits. Such information shall be considered in determining a prospective contractor’s responsibility under Section 25.2.

Bids or proposals from, awards or contracts to, or consent to subcontract with contractors so designated by GSA shall not be accepted unless the General Manager determines that there is a compelling reason for such action.

25.7 Certification Regarding Debarment or Ineligibility

The solicitations shall contain provisions requiring contractors and subcontractors at any level to verify that the entity (and its principals and affiliates) with which they propose to contract or subcontract is not debarred or ineligible.