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AGAR ADVISORY

**UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT
AGAR ADVISORY NO. 81, Revision 02.**

Common Identification Standard for Contractors

INTRODUCTION: This Agriculture Acquisition Regulation (AGAR) Advisory supersedes AGAR Advisory 81, Revision 01, dated October 15, 2007 and updates information concerning part of the USDA Homeland Security Presidential Directive (HSPD-12), "Policy for a Common Identification Standard for Federal Employees and Contractors," and Federal Information Processing Standards Publication (FIPS PUB) 201, "Personal Identity Verification (PIV) of Federal Employees and Contractors," credentialing process. This AGAR Advisory has been prepared to supplement the Federal Acquisition Regulation (FAR) final rule (FAR Case 2005-15), "Common Identification Standard for Contractors," published in the Federal Register on November 22, 2006, that addresses contractor personal identification requirements.

SUMMARY: HSPD-12, dated August 27, 2004, requires the development and agency implementation of a mandatory Government-wide standard for secure and reliable forms of identification for Federal employees and contractors, including contractor employees. As directed by HSPD-12, on February 25, 2005, the Department of Commerce issued FIPS PUB 201, which is a Federal standard for secure and reliable personal identity verification (PIV) for routine physical access to Federally-controlled facilities or information systems. Office of Management and Budget (OMB) memorandum M-05-24 dated August 5, 2005, provides instructions for implementing HSPD-12 according to FIPS PUB 201. FIPS PUB 201 has two phases, PIV I and PIV II. This Advisory addresses implementation of PIV II for USDA acquisitions; namely, the procedures and terms needed for contracts or orders awarded, or options exercised, on or after October 27, 2005. In accordance with requirements in HSPD-12, by October 27, 2005, agencies must:

- (a) Adopt and accredit a registration process consistent with the identity proofing, registration, and accreditation requirements in section 2.2 of FIPS PUB 201-1 and associated guidance issued by the National Institute for Standards and Technology. This registration process applies to all new identity credentials issued to contractors;
- (b) Begin the required identity proofing requirements for all current contractors that do not have successfully adjudicated investigation (i.e., completed National Agency Check with Written Inquires (NACI) or other Office of Personnel Management or

- National Security community investigation) on record. (By October 27, 2007, identity proofing should be verified and completed for all current contractors);
- (c) Complete and receive notification of results of the FBI National Criminal History Check prior to credential issuance;
 - (d) Include language implementing the Standard in applicable solicitations and contracts that require contractors to have routine physical access to a Federally-controlled facility or routine access to a Federal information system; and
 - (e) Complete the applicable privacy requirements listed in section 2.4 of FIPS PUB 201-1 and the OMB guidance M-05-24.

SPECIFIC ISSUES:

USDA Directives

For copies of Departmental Regulation (DR) 4620-002, Common Identification Standard for U.S. Department of Agriculture Employees and Contractors, and Departmental Manual (DM) 4620-002, Common Identification Standard for U.S. Department of Agriculture Employees and Contractors, as well as other information related to USDA implementation of HSPD-12, visit <http://hspd12.usda.gov>. Attached for your information is guidance concerning the PIV II process.

FAR Requirements

Certain PIV language must be implemented in all contracts. Please refer to FAR Subpart 4.13, Personal Identity Verification of Contractor Personnel. HSPD-12 clauses include FAR Clause 52.204-9 and AGAR Clause 452.204-71.

Contracting Officer Representatives (CORs; also known as Contracting Officer Technical Representatives) or other designated program/project officers will serve as PIV Sponsors for contractor personnel. When issuing the appointment memorandum to the COR (or other designated program/project officer) the Contracting Officer (CO) will ensure that the memorandum includes the PIV Sponsor duties.

USDA contract statements of work must indicate that all applicable contractor employees requiring routine physical access to Federally-controlled facilities or routine access to Federally-controlled information systems must go through the identity proofing and registration process, must have been successfully identity proofed, and have a successfully adjudicated National Agency Check with (Written) Inquiries (NACI) or Office of Personnel Management (OPM)/National Security (NS) Background Investigation (BI) to serve on the contract.

Contractor ID credentials will be issued after successful identity proofing of the contractor employee applicant and upon a successfully adjudicated NACI or OPM/NS BI. All contracts must detail periods of performance. Contractors must renew their credentials at the end of their period of performance.

Solicitations and Contracts Affected by this Advisory

Solicitations and contracts that require the contractor's employees to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system are covered by this Advisory. FAR Subpart 2.101 defines "Federally-controlled facilities" and "Federally-controlled information system" as follows:

"Federally-controlled facilities" means—

- (1) Federally-owned buildings or leased space, whether for single or multi-tenant occupancy, and its grounds and approaches, all or any portion of which is under the jurisdiction, custody or control of a department or agency;
- (2) Federally-controlled commercial space shared with non-government tenants. For example, if a department or agency leased the 10th floor of a commercial building, the Directive applies to the 10th floor only;
- (3) Government owned, contractor-operated facilities, including laboratories engaged in national defense research and production activities; and
- (4) Facilities under a management and operating contract, such as for the operation, maintenance, or support of a Government-owned or Government controlled research, development, special production or testing establishment.

"Federally-controlled information system" means an information system (44 U.S.C. 3502(8)) used or operated by a Federal agency, or a contractor or other organization on behalf of the agency.

Solicitations and contracts for supplies or services where the contractor's employees will have routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system may be excluded from coverage by this Advisory based on the LincPass Distribution Risk Assessment, which will be conducted by a USDA Sponsor as part of the PIV II registration, identity proofing, and credential issuance procedures. Examples of probable exclusions are couriers, express mail and package or other delivery persons.

Contracts that when originally awarded did not include the PIV requirements, but will be modified to include them, are covered by this Advisory.

Sponsors from the requiring office (and the site security officer) shall determine the applicability of the requirements of HSPD-12, FIPS PUB 201, OMB Memorandum M-05-24, and this Advisory. Details on applicability of these requirements are covered in the next section of this Advisory.

Questions Regarding Applicability of PIV Requirements to a Solicitation or Contract

If there is a question concerning applicability of the PIV requirements or other HSPD-12, FIPS PUB 201, or OMB Memorandum M-05-24 requirements, Sponsors may contact the Office of Security Services, Personnel and Document Security Division (OSS, PDSD) for guidance. Include the OSS, PDSD guidance in the contract file.

If the requiring office determines that performing contractor employees will require a LincPass based on the requirements set forth by HSPD-12, FIPS PUB 201, OMB Memorandum M-05-24, and this Advisory, the Sponsor shall notify the CO in writing. Upon

notification of an HSPD-12 requirement for performing contractors, COs should do the following:

1. Insert a clause that contains language similar to that in 452.204-71 in all covered solicitations and contracts that include FAR clause 52.204-9.
2. When issuing an appointment memorandum to the COR (or other designated program/project officer), detail PIV Sponsor duties to be delegated.
3. Provide any contract information necessary for the PIV enrollment process (such as contract number, period of performance, and contractor name) to the Sponsor or designated coordinator.
4. Should the results of the PIV process require exclusion of a contractor's employee, the CO shall notify the contractor in writing of the exclusion without specific detail regarding the reasons for exclusion.

Procedures for the Employees of the Contractor

The procedures to be followed by contractors and contractor employees are specified in DM 4620-002.

Protection of Information

Privacy of PIV information must be maintained in accordance with the Privacy Act of 1974. For information on the Privacy Act of 1974, visit <http://www.usdoj.gov/oip/privstat.htm>.

Clause for Solicitations and Contracts

FAR Subpart 4.13, Personal Identify Verification of Contractor Personnel, establishes the policy and use requirements for FAR clause 52.204-9, Personal Identify Verification of Contractor Personnel (JAN 2006).

Insert a clause that contains language similar to that in 452.204-71 in all covered solicitations and contracts which include FAR clause 52.204-9.

COs should amend covered solicitations prior to contract award to the maximum extent practicable to ensure that FAR Clause 52.204-9 and the appropriate AGAR clause are included to minimize the number of subsequent modifications that will be required.

452.204-71 PERSONAL IDENTITY VERICATION OF CONTRACTOR EMPLOYEES (Oct 2007)

(a) The contractor shall comply with the personal identity verification (PIV) policies and procedures established by the Department of Agriculture (USDA) Directives 4620-002 series.

(b) Should the results of the PIV process require the exclusion of a contractor's employee, the contracting officer will notify the contractor in writing.

(c) The contractor must appoint a representative to manage compliance with the PIV policies established by the USDA Directives 4620-002 series and to maintain a list of employees eligible for a USDA LincPass required for performance of the work.

(d) The responsibility of maintaining a sufficient workforce remains with the contractor. Employees may be barred by the Government from performance of work should they be found ineligible or to have lost eligibility for a USDA LincPass. Failure to maintain a sufficient workforce of employees eligible for a USDA LincPass may be grounds for termination of the contract.

(e) The contractor shall insert this clause in all subcontracts when the subcontractor is required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system.

(f) The PIV Sponsor for this contract is a designated program point of contact, which in most cases is the Contracting Officer Representative (COR), unless otherwise specified in this contract. The PIV Sponsor will be available to receive contractor identity information from *(hours and days) to *(hours and days) at *(office address for registration). The Government will notify the contractor if there is a change in the PIV Sponsor, the office address, or the office hours for registration; however, it is the contractor's responsibility to meet all aspects of paragraphs (c), (d), and (e).

(End of clause)

*Contracting Officer shall insert the appropriate information.

Orders Against Other Agency Contracts

Other agency contracts, including Federal Supply Schedules, may not have similar terms included in the contract. Before placing covered orders against such contracts, the Contracting Officer must review the terms, and if the contract does not include the necessary terms, either not use the contract or include these terms in the order placed against the contract.

Access to Classified National Security Information is Covered Elsewhere

When a proposed solicitation is likely to require access to information that is safeguarded pursuant to Executive Order 12958, Classified National Security Information, the requirements official shall follow AGAR Advisory 61, "Safeguarding National Security Information," the requirements identified in the National Industrial Security Program Operating Manual, and DM 4620-002, Appendix D. Contracting Officers or CORs should consult with OPPM, PDSO regarding the procedures to be followed.

QUESTIONS:

Questions that Contracting Officers and CORs have about DR or DM 4620-002, including any security requirements addressed in this Advisory, should be addressed to Susan

Gulbranson, Personnel and Document Security Division, by telephone at 202-720-7373, by fax at (202) 720-1689, or by email to susan.gulbranson@usda.gov.

If you have questions regarding this advisory, please contact Todd Repass, Chief, PPD via email at Todd.Repass@da.usda.gov or by phone at (202) 690-1060; or send an email to procurement.policy@da.usda.gov.

This Advisory is available at <http://www.usda.gov/procurement/policy/advisories.html>.

EXPIRATION DATE: This advisory will remain in effect until cancelled.

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