

AGAR ADVISORY

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

Common Identification Standard for Contractors

INTRODUCTION: This Agriculture Acquisition Regulation (AGAR) Advisory has been prepared to supplement the Federal Acquisition Regulation (FAR) final rule (FAR Case 2005-15), “Common Identification Standard for Contractors,” that addresses contractor personal identification requirements. These requirements are outlined in 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.”

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 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 only addresses implementation of PIV I 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 access to a federally-controlled facility or 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.

Guidance covering the modification of contracts for PIV II implementation will be issued at a later date.

SPECIFIC ISSUES:

USDA Directives

Information related to USDA implementation of HSPD-12 is available at <http://hspd12.usda.gov>. Draft copies of Departmental Regulation (DR) 3800-001, Common Identification Standard for U.S. Department of Agriculture Employees and Contractors, and Departmental Manual (DM) 3800-001, Common Identification Standard for U.S. Department of Agriculture Employees and Contractors, are available at that site for information. Pending issuance of these Directives, attached for information is an excerpt from DM 3800-001 (draft) with guidance concerning the PIV I 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. Please refer to AGAR Advisory 81, Common Identification Standard for Contractors, for additional HSPD-12 procurement guidance.

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 will ensure that the memorandum includes the PIV Sponsor duties.

USDA contract statements of work must indicate that all applicable contractor employees requiring long-term access to federally controlled facilities or information systems must go through the identity proofing and registration process, and must have been successfully identity proofed, and have a successfully adjudicated NACI or OPM/NS BI to serve on the contract.

Contractor ID badges will be issued after they have been successfully identity proofed, and upon a successfully adjudicated NACI or OPM/NS BI. All contracts must detail periods of performance. Contractors must, by contract law, renew their cards 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 access to a Federally-controlled facility and/or 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 intermittent access to a Federally-controlled facility or information system, or whose access will be on a short-term basis (less than 6 months), may be excluded from coverage by this Advisory based on a PIV needs assessment which will be conducted by USDA as part of the PIV I registration, identity proofing, and I.D. badge issuance procedures. "Long-term access" is defined as access to a federally-controlled facility or information system that is expected to last 6 months or more.
- Contracts which when originally awarded did not include the PIV requirements because the period of performance was less than 6 months, but which will be modified to extend the period of performance to last, in the aggregate, 6 months or more in either a single continuous contract or series of contracts, are covered by this Advisory.

The Contracting Officer shall consult with the requiring office (and the site security officer) to determine the applicability of the requirements of HSPD-12, FIPS PUB 201, OMB Memorandum M-05-24, and this Advisory.

Solicitations and contracts where the contractor's employees will intermittently access a

federally-controlled facility or information system will be subject to a USDA PIV needs assessment, which may or may not subject them to the PIV I requirements addressed in this Advisory. Examples of probable exclusions are couriers, express mail and package, or other delivery persons.

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 CORs may contact the Office of Security Services, Personnel and Document Security Division (OSS, PDSO) for guidance. Include the OSS, PDSO guidance in the solicitation and/or contract file.

Procedures for the Employees of the Contractor

The procedures to be followed by contractors and contractor employees are set forth in the attached excerpt from DM 3800-001.

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

Protection of Information

Privacy of PIV information must be maintained in accordance with the instructions in the attached excerpt from DM 3800-001.

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. Pending issuance of USDA Directives 3800 series, use Alternate I of 452.204-71. A template for AGAR clause 452.204-71 will be available in the Integrated Acquisition System.

Contracting officers should amend covered solicitations, 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 (Mar 2006)

- (a) The contractor shall comply with the personal identity verification (PIV) policies and procedures established by the Department of Agriculture (USDA) Directives 3800 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 this activity and to maintain a list of employees eligible for a USDA PIV ID Badge 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 PIV ID Badge. Failure to maintain a sufficient workforce of employees eligible for a USDA PIV ID Badge 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 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 shall notify the contractor if there is a change in the PIV Sponsor, the office address, or the office hours for registration.

(End of clause)

*Contracting Officer shall insert the appropriate information.

Alternate I: Pending issuance of USDA Directives 3800 series, replace paragraph (a) of 452.204-71 with the following paragraph (a):

(a) Before an employee may begin work on this contract, each employee must, as directed by the PIV Sponsor:

1. Complete either a SF-85, Questionnaire for Nonsensitive Positions, SF-85P, Questionnaire for Public Trust Positions, or SF-86, Questionnaire for National Security Positions, as appropriate, and items 1, 2, 8 through 13, 16 and 17a of the OF-306, Declaration for Federal Employment. The current versions of forms SF-85, SF-85P, and SF-86 carry Office of Management and Budget (OMB) control number 3206-0005. Form OF-306 has OMB control number 3206-0182. See http://www.opm.gov/forms/pdf_fill/sf85.pdf; or http://www.opm.gov/forms/pdf_fill/sf85p.pdf; or http://www.opm.gov/forms/pdf_fill/sf86.pdf; and

http://www.opm.gov/forms/pdf_fill/of0306.pdf.

2. Complete a Fair Credit Reporting Release, and 2 FD-258, Fingerprint Charts. The Fair Credit Reporting Release is located at: <http://www.usda.gov/da/pdsd/Web-Fair.htm>. The FD-258, Fingerprint Charts, may be obtained by contract companies (not individuals) by faxing a request to US Investigations Services at 724-794-0012 Attn: Michelle Pennington. Include the requestor's name, mailing address, and number of FD-258, Fingerprint Charts requested. Questions regarding fingerprint charts may be addressed to michelle.pennington@opm.gov. Contractor employees' fingerprints shall be taken by a Federal security office, or Federal, State, municipal, or local law enforcement agency.
3. The contractor's employee must appear in person in front of the PIV Sponsor or his or her designee with the completed forms and 2 identity source documents in original form. The identity source documents must be documents listed as acceptable for establishing identity on Form I-9, Employment Eligibility Verification, List A and B. The I-9 Form may be found at <http://uscis.gov/graphics/formsfee/forms/files/i-9.pdf>. At least one document shall be a valid State or Federal government-issued picture identification (ID) card. Applicants who possess a current State Drivers License or State Picture ID card shall present that document as one identity source document before presenting other State or Federal government-issued picture ID cards. This shall be done before or at the time the contract employee begins work under the contract.
4. Receive a finding that no potentially disqualifying information is listed on the above noted forms.

After beginning work under the contract, the contractor employee must receive a favorable agency adjudication of the FBI fingerprint and NACI results, or other U.S. Office of Personnel Management or National Security community background investigation.

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 3800-001, Appendix D. Contracting Officers or CORs should consult with OPPM, PDSD regarding the procedures to be followed.

QUESTIONS:

Questions that Contracting Officers and CORs have about DR or DM 3800-001, 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) 720-7708, or by email to susan.gulbranson@usda.gov.

For other questions about this Advisory, please contact Todd Repass, Procurement Policy Division, by telephone at 202-690-1060, by fax at 202-720-8972, or by email to todd.repass@usda.gov.

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

EXPIRATION DATE: One year after the issue date of this Advisory.

[END]