



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

JUL 19 2011

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Responsibility Determinations Involving Certain Offerors or Contractors

Subsection 9.104-1 of the Federal Acquisition Regulation requires that, in order to be determined responsible, prospective contractors must have a satisfactory record of integrity and business ethics. Prospective contractors and affiliates that have previously been suspended or debarred present unique challenges. Even though these entities may be considered for award upon the expiration of the suspension or debarment period and removal of their names from the Excluded Parties List System (EPLS), the prospective contractor's business integrity and ethics problems may continue to exist unabated. Therefore, prior to determining a prospective contractor to be responsible, the following new procedure must be followed.

Where a prospective contractor has been suspended or debarred and has been removed from the EPLS within the previous two years, contracting officers must at a minimum: (a) Consult with the cognizant Suspending and Debarring Official (SDO) to determine whether the prospective contractor met the terms of any applicable administrative agreement and is otherwise responsible to the best of the SDO's knowledge; (b) Contact the prospective contractor to determine whether it received any prime or subcontract awards since the suspension or debarment; (c) Consult with the contracting officer(s) that awarded contracts with the prospective contractor after the suspension or debarment to determine whether there is any evidence that the prospective contractor lacks business integrity; and (d) Conduct a Pre-Award Survey. The EPLS "Archive Search – Past Exclusions" feature provides the capability to determine if a prospective contractor has been suspended or debarred and has been removed from the EPLS within the previous two years.

It is requested the you ensure that all applicable contracting personnel under your cognizance are made aware of this new mandatory requirement. My point of contact for the matter is Clarence Belton. He can be reached at clarence.belton@navy.mil or (703)693-4006.

Elliott B. Branch
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Distribution:
Page 2

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