

## **Subchapter 3005.3 Synopses of Contract Awards**

### **3005.301 General.**

The contracting officer must document the contract file with the reason(s) why a contract award was not synopsisized.

### **3005.303 Announcement of contract awards.**

(a) *Public announcement.* Contract actions valued in excess of \$4 million and task or delivery orders using no-year or multi-year DHS funds in excess of \$10 million shall not be awarded or distributed, nor any information released to any source outside of DHS (except as described in FAR 15.503(a)), until the requirements of HSAM 3005.303-70 have been satisfied. Neither contracting officers nor any other DHS employee shall issue an award synopsis, public announcement, or any press release until the requirements in this subsection have been satisfied.

(b) *Local announcement.* The timing of any local announcement must be consistent with the requirements of Congressional notification in HSAM 3005.303-70.

### **3005.303-70 Congressional notification of contract actions.**

(a) It is essential that DHS contracting officers understand that complying with Appropriations law is a basic condition of holding a warrant. The Congressional notification requirements are required by the Consolidated Appropriations Act, which is appropriations law. These requirements apply not only to awards made with appropriated funds made available by DHS' annual appropriations acts, but to DHS contracts and orders in general regardless of the funding source. As a result, the Congressional notification requirements apply to all awards, including those funded by fees, offsetting receipts, gift funds, and any other budget authority. However, Congressional notification is not required for Foreign Military Sales conducted under FAR 6.302-4 International agreement where the foreign country specifies the vendor. Any deliberate or reckless action leading to a violation of Congressional notification requirements may be grounds for warrant suspension or revocation. Therefore, if in doubt, send the Congressional notification out.

(b) Appendix D, Congressional Notification Requirements identifies contract actions that shall not be awarded, issued or distributed, nor information released to sources outside of DHS (except as described in FAR 15.503(a)(1)), until the requirements of Appendix D and this subsection have been satisfied. It is the responsibility of the contracting officer to confirm that three (3) business days have elapsed following the DHS Office of the Chief Procurement Officer (OCPO) notification to the Senate and House of Representatives Appropriations Committees. Heads of Contracting Activities (HCAs) are required to provide the oversight necessary to ensure contracting officer compliance with Appendix D and this subsection.

(c) OCPO is responsible for reviewing all Congressional notifications prior to submission to the Senate and House of Representatives Appropriations Committees. OCPO will review the notification for accuracy and to ensure supplies or services are clearly described and easily understood. Most delays in the notification process are the result of poorly worded or overly technical descriptions of supplies or services. Therefore, do not use undefined acronyms, vague

language or technical jargon that may not be known by the general public within the notification. Contracting officers can prevent delays in awards by using plain language in the description allowing individuals not familiar with the requirements to comprehend what is being procured. Examples of summary description do's and don'ts are available under Job Aids at this [link](#).

(d) *Announcement and notification procedures.* The DHS OCPO will use the information contained on the electronic Congressional notification form within the DHS Office of the Chief Procurement Officer Enterprise Reporting Application (ERA) tool to notify Senate and House of Representative Appropriations Committees.

(1) Contracting officers or other officials designated by the Component shall prepare and electronically submit the Congressional notification (after internal Component coordination as required) via the ERA tool located at <http://ocpo-sp.dhs.gov/sites/era/Pages/cn-home.aspx> to OCPO at least five (5) full business days prior to the anticipated award or notice of award per Appendix D.

(i) The business day begins at 9:00 a.m. Eastern Time (ET). For notifications received after 9:00 a.m. ET, the first full business day will be the day following receipt. For example, if a contract or order is planned to be awarded/issued on a Friday, the electronic Congressional notification must be received electronically within ERA by OCPO no later than 9:00 a.m. the previous Friday.

(2) The contracting officer shall complete a separate electronic Congressional notification form for each anticipated award or notice of award per Appendix D. Thus, multiple actions on the same electronic Congressional notification form are not permissible.

(3) Contracting officers shall note the anticipated date of award on the electronic Congressional notification form, which shall be at least five (5) full business days after the electronic Congressional notification form is transmitted to the DHS OCPO via ERA. The contracting officer, or the official who transmitted the electronic Congressional notification form, will receive an ERA systems or OCPO-generated email as confirmation to proceed with award or notification per Appendix D.

(4) Descriptions of classified Congressional notifications or notices that would jeopardize national security shall not be included in the ERA tool as these types of notices shall be coordinated directly with OCPO outside the ERA tool.

(e) *Discretionary notification.* HCAs are authorized to provide discretionary Congressional notification when otherwise not required if it is determined the action is of special interest. Discretionary Congressional notification shall be made under the same procedures and timeframe as required Congressional notification that is required. HCAs or their designated representative must coordinate with OCPO before submitting the electronic Congressional notification form.

(f) *Request for Congressional Notification Deferral.* Congressional notification to the Committees of Appropriation of the Senate and House of Representatives for contract actions as provided in Appendix D which use FY 2009 or subsequent years' appropriations may be

deferred only in very limited circumstances. Such circumstances are limited to those situations where compliance with Congressional notification procedures prior to contract award would pose a substantial risk to human life, health, or safety. Notification shall be made concurrently or prior to awarding a contract or issuing an order. If a contracting officer determines a substantial risk to human life, health, or safety exists, the following procedures apply:

(1) The contracting officer shall notify the Component HCA concerning circumstances that warrant an award of any action shown in Appendix D which would defer the five (5) business day Congressional notification waiting period. The Component HCA must request approval from the DHS Chief Procurement Officer (CPO) or Deputy Chief Procurement Officer (DCPO) of the intent to defer the five (5) business day Congressional notification waiting period. The HCA is responsible for ensuring Congressional notifications are entered into the ERA tool based on the Components anticipated award date as approved by CPO/DCPO.

(i) *Deferral Format.* The DHS Congressional Notification Deferral Job Aid is available under Job Aids at this [link](#). The job aid provides additional guidance and details, including a sample format of the deferral memo to be approved by CPO or DCPO. All deferral requests must include a justification clearly demonstrating how the delay of award due to Congressional notification procedures would pose a substantial risk to human life, health, or safety.

(ii) *Timeline for notification to CPO/DCPO.* The Component HCA should notify the CPO/DCPO as soon as the Component reasonably anticipates an award of an action covered in Appendix D where compliance with Congressional notification would pose a substantial risk to human life, health, or safety. At a minimum, the Component HCA should provide a cursory notification to the CPO/DCPO at the time of solicitation.

(iii) *Timeline for receiving approval from CPO/DCPO.* Due to the nature of the substantial risk to human life, health, or safety, it is the CPO/DCPO intention to respond to Component deferral submissions as soon as possible. If after exhausting all means of reaching CPO or DCPO (including email and mobile phone) and is unable to establish contact with the CPO/DCPO the Component HCA may proceed with concurrent award and Congressional notification one (1) business day following the request. Such action should be taken only after ensuring that all efforts have been made to obtain CPO/DCPO approval during that timeframe. This timeline applies to any Component request received overnight and/or weekends to include during FEMA emergency activation periods.

(iv) *Consolidation of substantial risk to human life, health, or safety deferrals under the same disaster relief or recovery effort.* Due to the unpredictable nature of disaster and emergency situations, Components are highly encouraged to submit one consolidated deferral request to OCPO in order to cover multiple contract actions. When a disaster related contract action requires a substantial risk to human life, health, or safety deferral, the Component HCA should submit a

consolidated deferral request to the CPO/DCPO that covers potential additional related relief or recovery contract actions. See Job Aid for additional information.

- (2) The electronic Congressional notification form within ERA will require the contracting officer to upload the approved DCPO/CPO deferral document for review by OCPO.