

Subchapter 3009.1 Responsible Prospective Contractors

3009.104 Standards.

3009.104-5 Representation and certifications regarding responsibility matters.

(a)(2) If an apparent successful offeror that is otherwise responsible submits an affirmative certification under FAR 52.209-5 Certification Regarding Responsibility Matters, or paragraph (h) of provision 52.212-3, indicating the existence of an indictment, charge, conviction or civil judgment or Federal tax delinquency in an amount that exceeds the threshold specified FAR 9.104-5(a)(2), the contracting officer shall request additional information regarding the issue to determine whether the apparent successful offeror is presently responsible. If the contracting officer determines that the apparent successful offeror is presently responsible, the contracting officer shall forward the certification and supporting documentation, and a specific statement that the apparent successful offeror is presently responsible to the Office of Inspector General (OIG) requesting that a suspension and debarment referral file be created and forwarded to the Suspension and Debarment Official (SDO) in accordance with DHS Directive 146-01 and DHS Instruction Number 146-01-001 (available at: <http://dhsconnect.dhs.gov/Policy/directives-instructions#k=suspension>). The contracting officer shall not award the contract until the SDO acknowledges receipt and specifically states that suspension or debarment will not be considered.

(b)(2) When an offeror provides an affirmative response in paragraph (b)(1) or (b)(2) of the provision 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law, or paragraph (q)(2)(i) or (ii) of provision 52.212-3, the contracting officer shall forward the certification, any additional information received from the offeror, and a specific statement that the apparent successful offeror is presently responsible to the OIG requesting that a suspension and debarment referral file be created and forwarded to the Suspension and Debarment Official (SDO) in accordance with DHS Directive 146-01 and DHS Instruction Number 146-01-001 (available at: <http://dhsconnect.dhs.gov/Policy/directives-instructions#k=suspension>).

3009.104-6 Federal Awardee Performance and Integrity Information System.

(c)(2) If the contracting officer identifies adverse information in the Federal Awardee Performance Information System (FAPIIS) that could indicate that the apparent successful offeror should be suspended or debarred, the contracting officer shall provide the information to the OIG and request that the facts be investigated. If appropriate, the OIG shall create a suspension and debarment referral and forward it to the SDO for consideration.

3009.105 Procedures.

3009.105-2 Determinations and documentation.

(a) *Determinations.* (1) The contracting officer shall promptly provide a copy of the nonresponsibility determination to the prospective contractor and a copy to the OIG who will prepare a referral to the SDO in accordance with DHS Directive 146-01 and DHS Instruction Number 146-01-001.

(b) *Support documentation.* (1) For all contract awards, the contracting officer shall include the System for Award Management (SAM) Exclusions and the FAPIIS screen shots in the contract file to establish that the information regarding the awardee and applicable key personnel was reviewed.

(2)(i) The contracting officer shall document the determination of nonresponsibility directly in FAPIIS and this function is not delegable. For access to FAPIIS, contact the Component Focal Point for the Contractor Performance Assessment Reporting System (CPARS) as described at HSAM 3042.1503(a) (4).

(ii) The contracting officer shall submit a copy of each nonresponsibility determination documented in FAPIIS to the OIG who will prepare a referral to the SDO in accordance with DHS Directive 146-01 and DHS Instruction Number 146-01-001.

(3) *Task and Delivery Orders and Exercise of Options.* A responsibility determination is not required when placing orders under indefinite delivery contracts, including orders placed under the GSA Federal Supply Schedule. However, the contracting officer shall check SAM to verify that the contractor is not excluded.

3009.171 Prohibition on Federal Protective Service guard services contracts with business concerns owned, controlled, or operated by an individual convicted of a felony.

An affirmative certification provided by an apparent successful offeror under HSAR 3052.209-76 indicating it is a business concern owned, controlled, or operated by an individual convicted of a felony shall be promptly transmitted by the contracting officer to the OIG prior to proceeding with contract award. DHS contracting professionals shall follow DHS Directive 146-01 and DHS Instruction Number 146-01-001 concerning procedures, documentation, and process for each referral to consider for potential suspension and debarment.

3009.172 Reserved.