AMENDMENT OF SOLICITATION FOR COOPERATIVE AGREEMENT APPLICATIONS

Amendment No. 009 of Solicitation Number DLA-20130412

Amendment Issue Date: December 30, 2015

ISSUED BY:

Defense Logistics Agency (DLA)
Office of Small Business Programs (DB)
Procurement Technical Assistance Program
8725 John J. Kingman Road, Suite 1127
Ft. Belvoir, VA 22060

DESCRIPTION OF AMENDMENT:

Solicitation Number DLA-20130412 is hereby amended –

1. To implement Office of Management and Budget "Guidance for Reporting and Use of Information Concerning Recipient Integrity and Performance," published in the Federal Register on July 22, 2015 (80 FR 43301), which updated parts 180 and 200 of Title 2, Code of Federal Regulations (CFR). This amendment serves as notice to applicants that –

   a. Prior to making an award with a total amount of Federal share greater than the simplified acquisition threshold (currently $150K), we are required to review and consider any information about you that is in the OMB-designated integrity and performance system. Currently, the OMB-designated system is the Federal Awardee Performance and Integrity Information System (FAPIIS) (see 41 U.S.C. 2313);

   b. You, at your option, may review information in FAPIIS (or successor OMB-designated system) and comment on any information about you that a Federal awarding agency previously entered and is currently in the system; and

   c. We will consider any comments by you, in addition to the other information in FAPIIS (or successor OMB-designated system), in making a judgment about your integrity, business ethics, and record of performance under Federal awards when completing the review of risk as described in 2 CFR 200.205 "Federal awarding agency review of risk posed by applicants."

2. To replace OAR Article I "Maintaining recipient information" (Mar 2015) with OAR Article I "Submitting and maintaining recipient information" (Dec 2015), which is in Attachment 1 of this amendment.

   The updated article implements OMB guidance in 2 CFR 200.113 and 200.210(b)(1)(iii) by including a requirement for you to report certain information to FAPIIS and disclose evidence of certain integrity related matters.

3. To implement the provisions in Sections 743, 745 and 746 of the Financial Services and General Government Appropriations Act, 2016 (Division E of the Consolidated Appropriations Act, 2016, Pub. L. 114-113) by –

   a. Deleting the reference to "Section 743 of the Financial Services and General Government Appropriations Act, 2015 (Division E of the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113-235)" in paragraph 14 of NP Article III (refer to SCAA Amendment No. 006) and replacing it with a reference to "Section 743 of the Financial Services and General Government Appropriations Act, 2016 (Division E of the Consolidated Appropriations Act, 2016, Pub. L. 114-113)".

   b. Pursuant to the prohibitions in Sections 745 and 746 of the Act, adding a requirement for you to submit the representation in Attachment 2 of this amendment along your application. If you submit your application after the date of this amendment, attach the representation to your application in grants.gov. If you have already submitted your application, but we have not yet made an award, submit the representation directly to your grants officer.

By signing an award that incorporates Amendment No. 009, you agree to comply with all its provisions.

Attachment 1

OAR Article I. Submitting and maintaining recipient information. (Dec 2015)

Section A. System for Award Management.

1. Unless you are exempted from this requirement based on the criteria provided in OMB guidance in section 25.110 of 2 CFR part 25, you must maintain the currency of information about yourself in the system the Federal Government specifies as the repository for information about its business partners (currently the System for Award Management).

2. You must maintain the information in that system until you submit the final financial report required under this award or receive the final payment, whichever is later.

3. With one exception, you must review and update the information at least annually after your initial registration in the system and more frequently if required by changes in your information. The one exception is the integrity and performance information that you report through the System for Award Management to the designated performance and integrity information system, in accordance with Section B of this article. That information must be reviewed and updated at least semiannually, as described in paragraph B.4 of that section.

Section B. Reporting of Performance and Integrity Information.

1. General reporting requirement. If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal agencies exceeds $10,000,000 for any period of time during the period of performance of this award, then during that period of time you must maintain the currency of information that you are required by paragraph B.2 of this section to report to the information system designated by the Federal Government for that purpose. Note that:

    a. This reporting is required under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313).

    b. As required by section 3010 of Public Law 111-212, all performance and integrity information posted in the designated information system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

    c. The currently designated information system is the Federal Awardee Performance and Integrity Information System. Recipient information is submitted to that system through the System for Award Management, as described in paragraph B.3 of this section.

2. Proceedings about which you must report. Submit the information that the designated information system requires about each proceeding that:

   a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

   b. Reached its final disposition during the most recent 5 year period; and

   c. Is one of the following:

      i. A criminal proceeding that resulted in a conviction, as defined in paragraph B.5. of this section;

      ii. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

      iii. An administrative proceeding, as defined in paragraph B.5. of this section, that resulted in a finding of fault and liability and your payment of either monetary fine or penalty of $5,000 or more or a reimbursement, restitution, or damages in excess of $100,000; or

      iv. Any other criminal, civil, or administrative proceeding if:

         A. It could have led to an outcome described in paragraph B.2.c.i, ii, or iii of this section;

         B. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

         C. The requirement in this section to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting procedures. Submit the required information about types of proceedings described in paragraph B.2 of this section to the Entity Management functional area of the System for Award Management.

   a. Current procedures are to submit the information as part of the maintenance of your information in the System for Award Management that Section A of this article requires.

   b. You do not need to submit the information again under this award if you already reported current information to the System for Award Management under another Federal grant, cooperative agreement, or procurement contract.

4. Reporting frequency. During any period of time when you are subject to the requirement in paragraph B.1 of this section, you must report to FAPIIS no less frequently than semiannually following your initial report of any proceedings for the most recent 5-year period, either to provide new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report.

5. Definitions. For purposes of this section:

   a. *Administrative proceeding* means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract, grant, or cooperative agreement. It does not include audits, site visits, corrective plans, or inspection of deliverables.

   b. *Conviction* means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

   c. *Total value of currently active grants, cooperative agreements, and procurement contracts* includes:

      i. Only the Federal share of the funding under any Federal agency award with a recipient cost share or match; and

      ii. The value of all expected funding increments and options, even if not yet exercised, under each Federal agency award.

Section C. Disclosure of evidence of integrity-related issues.

1. Disclosure requirement. At any time during the period of performance of this award, if you have credible evidence that a covered person committed a covered action (see paragraphs C.2 and C.3 of this section) that may affect this award, you must disclose the evidence in writing to the Office of the Inspector General, DoD, with a copy to the grants officer identified in the award.

2. Covered person. As the term is used in this section, “covered person” means a principal, employee, or agent of either you or a subrecipient under this award, where:

   a. “Principal” means:

      i. An officer, director, owner, partner, principal investigator, or other person with management or supervisory responsibilities that relate to this award; or

ii. A consultant or other person, whether or not employed by you or a subrecipient or paid with funds under this award, who:

A. Is in a position to handle funds under this award;

B. Is in a position to influence or control the use of those funds; or

C. Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the project or program under this award.

b. "Agent" means any individual who acts on behalf of, or who is authorized to commit you or the subrecipient, whether or not employed by you or the subrecipient.

3. Covered action. As the term is used in this section, "covered action" means a violation of Federal criminal law in Title 18 of the United States Code involving fraud, bribery, or a gratuity violation.

4. Safeguarding of the information.

a. To the extent permitted by law and regulation, we will:

i. Safeguard and treat information you disclose to us as confidential if you mark the information as "confidential" or "proprietary."

ii. Not release the information to the public in response to a Freedom of Information Act (5 U.S.C. 552) request without notifying you in advance.

b. We may transfer documents you provide to us to any other department or agency within the Executive Branch of the Federal Government if the information relates to matters within that organization's jurisdiction.

Attachment 2
(submit on your letterhead)

(1) The applicant represents that it is ____ is not _____ a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(2) The applicant represents that it is ____ is not ____ a corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months.

NOTE: If you respond in the affirmative to either of the above representations, you are ineligible to receive an award unless our suspension and debarment official (SDO) has considered suspension or debarment and determined that further action is not required to protect the Government's interests. You therefore should provide information about your tax liability or conviction to the SDO as soon as you can do so, to facilitate completion of the required consideration before award decisions are made.

Authorized Representative

Name: _____

Title: _____

Signature: _____

Date signed: _____