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RESPONDING TO UNSOLICITED PROPOSALS

I. Purpose

This directive establishes the Department of Homeland Security (DHS) policy for responding to unsolicited proposals.

II. Scope

This directive applies to all DHS organizational elements serviced by the DHS Chief Procurement Officer. All organizational elements that receive contracting support from another Federal agency or that have existing programs, should continue to use those procedures until a DHS-wide system is developed and implemented.

III. Authorities

This directive is governed by numerous Public Laws and national policy, such as:

A. Section 834, subparagraph (a), Public Law 107-296, the Homeland Security Act of 2002 (requiring modifications within one year of enactment of the Homeland Security Act to the Federal Acquisition Regulations (FAR) to include regulations with regard to unsolicited proposals).

B. Section 834, subparagraph (b) of the Homeland Security Act (outlining the intended content of those modifications). In the interim, this directive will provide the basis for implementing the provisions prescribed by the Act until modifications to the FAR are completed.

C. Federal Acquisition Regulations (FAR) 15.6 (providing policy and procedures concerning the submission, receipt, evaluation and acceptance or rejection of unsolicited proposals).

IV. Definitions

A. ***Unsolicited Proposal:*** A written proposal for a new or innovative idea that is submitted to an agency on the initiative of the offer or for the purpose of obtaining a contract with the government.

B. **Program Manager**: an individual responsible for planning, executing and controlling assigned programs/projects.

C. **Contracting Officers**: are individuals authorized to execute, modify, or terminate a contract to the extent of the authority delegated in writing to them.

V. Responsibilities

A. The **Under Secretary for Management** shall be responsible for all aspects of this directive.

B. **Program managers** shall:

1. Determine that unsolicited proposals are consistent with the objectives of the programs for which they are responsible;
2. Determine that such proposals provide the information necessary to permit evaluation;
3. Consider such proposals is in the interest of the government;
4. Determine the specific procedures by which an unsolicited proposal will be evaluated, provided that such procedures are consistent with procedures for evaluation of solicited proposals of comparable scope, complexity and cost.
5. Document the resulting selection; and
6. Determine the availability of funding.

C. **Contracting officers** shall:

1. Assure that the process for evaluating any unsolicited proposals and any awards of funding for such proposals are consistent with all applicable acquisition regulations and laws; and
2. Negotiate and award contracts, other transaction or other financial agreements for proposed work.

VI. Policy & Procedures

A. Policy.

1. It is the general policy of DHS that competitive solicitations will be used whenever possible to acquire goods and services. For those programs that wish to receive and evaluate proposals on a continuing basis, an appropriate solicitation or announcement of opportunity should be issued and periodically updated and re-issued, and standard procedures for evaluating proposals in response to Requests For Proposals (RFPs) should apply to proposals received in response to such solicitations.

2. The above policy notwithstanding, unsolicited proposals of high technical merit may be considered for award where such consideration is in the interest of the government. The judgment as to whether an unsolicited proposal may be considered, and the determination of the specific procedures for evaluation of that proposal, is at the discretion of the cognizant program manager within the criteria set forth in FAR 15.6.

3. Before initiating a comprehensive evaluation, the responsible program manager shall consider whether:

- a. The proposal has been submitted in response to a previously published solicitation;
- b. The proposal contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost related or price related factors.

4. DHS is not required to perform evaluations of unsolicited proposals that are not related to its mission. The principal elements to be considered in evaluating an unsolicited proposal should include:

- a. Unique and innovative methods, approaches and concepts;
- b. Overall scientific/technical or socioeconomic merit;
- c. Potential contribution of the effort to the DHS mission;
- d. Proposer's capabilities, related experience, facilities, techniques or unique combinations in achieving proposal objectives;
- e. Qualifications, capabilities, and experience of proposed principal investigator, team leader, or key personnel;

- f. Appropriateness of proposed costs; and
 - g. Availability of funding to support the project.
5. Unsolicited proposals may be accepted upon a determination that the proposal was:
- a. Submitted on the proposer's own initiative;
 - b. Demonstrates a unique and innovative concept, or demonstrates a unique capability;
 - c. Offers a concept or services not otherwise available to the government; and
 - d. Does not duplicate or resemble the substance of a pending competitive acquisition.
6. The contracting officer may commence negotiations on a sole source basis only when:
- a. An unsolicited proposal has received a favorable comprehensive evaluation;
 - b. A justification and approval has been obtained (See FAR subpart 6.3);
 - c. The agency technical office sponsoring the contract furnishes the necessary funds; and
 - d. The contracting officer has complied with the synopsis requirements as stipulated in FAR Subpart 5.2.
7. Unsolicited proposals not providing the necessary information to support review should not be considered for award. Unsolicited proposals should receive awards only if they are evaluated as meeting technical, cost, and other non-technical criteria at a level equal to or in excess of proposals receiving awards under comparable competitive solicitations.
8. Prior to award, unsolicited proposals shall be subjected to evaluation against technical quality, cost, and other non-technical factors using evaluation criteria and methods comparable to those used for evaluation of proposals of similar scope, cost and technical complexity prepared in response to DHS competitive solicitations.

B. **Procedures**: Program managers and other individuals involved in the evaluation of unsolicited proposals shall conduct themselves in accordance with the same conflict of interest and other professional standards that apply to competitive solicitations.

C. **Questions or Concerns Regarding the Process**: Any questions or concerns regarding this directive should be addressed to the Office of the Under Secretary for Management.