

# **Subpart 909.5 - Organizational and Consultant Conflicts of Interest**

Source: 62 FR 40751, July 30, 1997, unless otherwise noted.

**Parent topic:** PART 909 - CONTRACTOR QUALIFICATIONS

## **909.503 Waiver.**

Heads of Contracting Activities are delegated the authorities in 48 CFR 9.503 regarding the waiver of organizational and consultant conflicts of interest requirements.

## **909.504 Contracting officer's responsibility.**

(d) The contracting officer shall evaluate the statement by the apparent successful offeror or, where individual contracts are negotiated with all firms in the competitive range, all such firms for interests relating to a potential organizational conflict of interest in the performance of the proposed contract. Using that information and any other credible information, the contracting officer shall make written determination of whether those interests create an actual or significant potential organizational conflict of interest and identify any actions that may be taken to avoid, neutralize, or mitigate such conflict. In fulfilling their responsibilities for identifying and resolving potential conflicts, contracting officers should avoid creating unnecessary delays, burdensome information requirements, and excessive documentation.

(e) The contracting officer shall award the contract to the apparent successful offeror unless a conflict of interest is determined to exist that cannot be avoided, neutralized, or mitigated. Before determining to withhold award based on organizational conflict of interest considerations, the contracting officer shall notify the offeror, provide the reasons therefor, and allow the offeror a reasonable opportunity to respond. If the conflict of interest cannot be avoided, neutralized, or mitigated to the contracting officer's satisfaction, the contracting officer may disqualify the offeror from award and undertake the disclosure, evaluation, and determination process with the firm next in line for award. If the contracting officer finds that it is in the best interest of the United States to award the contract notwithstanding a conflict of interest, a request for waiver shall be submitted in accordance with 909.503. The waiver request and decisions shall be included in the contract file.

## **909.507 Solicitation provisions and contract clause.**

### **909.507-1 Solicitation provisions.**

(e) The contracting officer shall insert the provision at 952.209-8, Organizational Conflicts of Interest Disclosure-Advisory and Assistance Services, in solicitations for advisory and assistance services expected to exceed the simplified acquisition threshold. In individual procurements, the

Head of the Contracting Activity may increase the period subject to disclosure in 952.209-8 (c)

(1) up to 36 months.

## **909.507-2 Contract clause.**

(a)

(1) The contracting officer shall insert the clause at 952.209-72, Organizational Conflicts of Interest, in each solicitation and contract for advisory and assistance services expected to exceed the simplified acquisition threshold.

(2) Contracting officers may make appropriate modifications where necessary to address the potential for organizational conflicts of interest in individual contracts. Contracting officers shall determine the appropriate term of the bar of paragraph (b)(1)

(i) of the clause at 952.209-72 and enter that term in the blank provided. In the usual case of a contract for advisory and assistance services a period of three, four, or five years is appropriate; however, in individual cases the contracting officer may insert a term of greater or lesser duration.

(3) The contracting officer shall include Alternate I with the clause in instances in which a meaningful amount of subcontracting for advisory and assistance services is expected.

(b) Contracts, which are not subject to part 970 but provide for the operation of a DOE site or facility or environmental remediation of a specific DOE site or sites, shall contain the organizational conflict of interest clause at 952.209-72. The organizational conflicts of interest clause in such contracts shall include Alternate I to that clause.