

## **VAAR 809.106-1 Conditions for preaward surveys.**

1. Preaward on-site evaluation will be made for contracts covering the products and services of bakeries, dairies, ice cream plants and laundry and dry cleaning activities. A committee under the direction of the contracting officer and composed of representatives of the medical service and/or using service chiefs or designees appointed by the facility director will inspect and evaluate the plant, personnel, equipment and processes of the prospective contractor. Prior to any inspection, the contracting officer will inquire whether the plant has been recently inspected and approved by another Department of Veterans Affairs facility or Federal agency. Approved inspection reports of another Department of Veterans Affairs facility will be accepted by Department of Veterans Affairs facilities and approved inspection reports of other Federal agencies may be accepted as satisfactory evidence that the facilities of the bidder meet the requirements of the Invitation for Bid, provided inspection was made not more than 6 months prior to the proposed contract period.
2. Preaward on-site evaluation of dairy plants will not be made by the Department of Veterans Affairs when acceptable bids are received from suppliers of those dairy products designated as No. 1 in the Federal Specifications. Suppliers must have received, prior to opening of bids, a pasteurized milk rating of 90 percent or more for the type of product being supplied, on the basis of the U.S. Public Health Service milk ordinance and code. Such rating must be current (not over 2 years old), and will have been determined by certified State milk sanitation rating officer in the State of origin or by the Public Health Service and will continue at 90 percent or more

during the period of the contract. Firms not so rated may only offer dairy products designated as No. 2 in the Federal Specifications. Award to such firms may be made only after completion of a preaward on-site evaluation conducted in accordance with paragraph [\(a\)](#) of this section.

3. Prior to any open market purchase of fresh bakery products (such as pies, cakes, cookies), the plant where these products are produced or prepared will be inspected and evaluated as provided in paragraph [\(a\)](#) of this section. On-site evaluation will be made at least annually and recorded on VA Form 10-2079, Inspection Report of Bakery.

**VAAR 809.504 Contracting officer's responsibilities.**

(a) Contracting officers will be responsible for determining the existence of actual and/or potential organizational conflicts of interest which would result from the award of the contract. The contracting officer will be guided by information submitted by offerors and by his/her own judgment. The contracting officer may obtain the advice of legal counsel and the assistance of technical specialists in evaluating potential organizational conflicts.

(b) If it is determined that organizational conflicts of interest will be created by the award of the contract, the contracting officer may find an offeror nonresponsible.

(c) Notwithstanding the existence of organizational conflicts of interest, it may be determined that the award of the contract would be in the best interest of the Government. In that case, the contracting officer may set terms and conditions which will reduce the organizational conflicts of interest to the greatest extent possible, with the approval of the head of the contracting activity.

(d) The contracting officer will, in addition to any certifications required by this subpart, require in all solicitations for consulting services that the offeror submit as part of an offer a statement which discloses all relevant facts relating to existing or potential organizational conflicts of interest surrounding the contract and/or the proposed use of subcontractors during the contract.

**VAAR 852.209-70 Organizational conflicts of interest.**

The following provision will be used as prescribed in [§809.508-2](#):

## **ORGANIZATIONAL CONFLICTS OF INTEREST (APR 1984)**

1. The offeror represents to the best of his/her knowledge and belief that the award of the contract would not involve organizational conflicts of interest as defined in this representation. The term organizational conflicts of interests shall mean that a relationship exists whereby an offeror or a contractor (including his/her chief executive, directors, proposed consultants and subcontractors) has interests which may:
  1. Diminish his/her capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product; or
  2. result in an unfair competitive advantage. It does not include the "normal flow of benefits" from the performance of a contract.
2. Based on this representation and any other information solicited by the contracting officer, it may be determined organizational conflicts of interest exist which would warrant disqualifying the contractor for award of the contract unless the organizational conflicts of interest can be mitigated to the contracting officer's satisfaction by negotiating terms and conditions of the contract to that effect. In the case of a formally advertised solicitation, the apparent successful offeror may enter into a supplemental agreement which mitigates the organizational conflicts of interest.
3. Nondisclosure or misrepresentation of organizational conflicts of interest at the time of the offer, or arising as a result of a modification to the contract, may result in the termination of the contract at no expense to the Government.