

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(Revised December 31, 2012)

252.209-7000 Reserved.

252.209-7001 Disclosure of Ownership or Control by the Government of a Terrorist Country.

As prescribed in [209.104-70](#)(a), use the following provision:

DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (JAN 2009)

(a) *Definitions.* As used in this provision—

(1) “Government of a terrorist country” includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) “Terrorist country” means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries subject to this provision include: Cuba, Iran, Sudan, and Syria.

(3) “Significant interest” means—

(i) Ownership of or beneficial interest in 5 percent or more of the firm’s or subsidiary’s securities. Beneficial interest includes holding 5 percent or more of any class of the firm’s securities in “nominee shares,” “street names,” or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) *Prohibition on award.* In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

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(c) *Disclosure.* If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include—

- (1) Identification of each government holding a significant interest; and
- (2) A description of the significant interest held by each government.

(End of provision)

252.209-7002 Disclosure of Ownership or Control by a Foreign Government.

As prescribed in [209.104-70](#)(b), use the following provision:

DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT (JUN 2010)

(a) *Definitions.* As used in this provision—

(1) “Effectively owned or controlled” means that a foreign government or any entity controlled by a foreign government has the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the Offeror’s officers or a majority of the Offeror’s board of directors by any means, e.g., ownership, contract, or operation of law (or equivalent power for unincorporated organizations).

(2) “Entity controlled by a foreign government”—

(i) Means—

effectively (A) Any domestic or foreign organization or corporation that is owned or controlled by a foreign government; or

(B) Any individual acting on behalf of a foreign government.

(ii) Does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(3) “Foreign government” includes the state and the government of any country (other than the United States and its outlying areas) as well as any political subdivision, agency, or instrumentality thereof.

(4) “Proscribed information” means—

(i) Top Secret information;

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(ii) Communications security (COMSEC) material, excluding controlled cryptographic items when unkeyed or utilized with unclassified keys;

(iii) Restricted Data as defined in the U.S. Atomic Energy Act of 1954, as amended;

(iv) Special Access Program (SAP) information; or

(v) Sensitive Compartmented Information (SCI).

(b) *Prohibition on award.* No contract under a national security program may be awarded to an entity controlled by a foreign government if that entity requires access to proscribed information to perform the contract, unless the Secretary of Defense or a designee has waived application of 10 U.S.C. 2536(a).

(c) *Disclosure.* The Offeror shall disclose any interest a foreign government has in the Offeror when that interest constitutes control by a foreign government as defined in this provision. If the Offeror is a subsidiary, it shall also disclose any reportable interest a foreign government has in any entity that owns or controls the subsidiary, including reportable interest concerning the Offeror's immediate parent, intermediate parents, and the ultimate parent. Use separate paper as needed, and provide the information in the following format:

Offeror's Point of Contact for Questions about Disclosure
(Name and Phone Number with Country Code, City Code
and Area Code, as applicable)

Name and Address of Offeror

Name and Address of Entity
Controlled by a Foreign
Government

Description of Interest, Ownership
Percentage, and Identification of
Foreign Government

(End of provision)

252.209-7003 Reserve Officer Training Corps and Military Recruiting on Campus—Representation.

As prescribed in [209.470-4\(a\)](#), use the following provision:

RESERVE OFFICER TRAINING CORPS AND MILITARY RECRUITING ON CAMPUS— REPRESENTATION (MAR 2012)

(a) *Definition.* "Institution of higher education," as used in this provision, is defined in the clause at [252.209-7005](#), Reserve officer Training Corps and Military Recruiting on Campus.

(b) *Limitation on contract award.* Except as provided in paragraph (c) of this provision, an institution of higher education is ineligible for contract award if the Secretary of Defense determines that the institution has a current policy

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or practice (regardless of when implemented) that prohibits or in effect prevents—

(1) The Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (ROTC) (in accordance with 10 U.S.C. 654 and other applicable Federal laws) at that institution;

(2) A student at that institution from enrolling in a unit of the Senior ROTC at another institution of higher education;

(3) The Secretary of a military department or the Secretary of Transportation from gaining entry to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting; or

(4) Military recruiters from accessing, for purposes of military recruiting, the following information pertaining to students (who are 17 years of age or older) enrolled at that institution:

- (i) Name.
- (ii) Address.
- (iii) Telephone number.
- (iv) Date and place of birth.
- (v) Educational level.
- (vi) Academic major.
- (vii) Degrees received.
- (viii) Most recent educational institution enrollment.

(c) *Exception.* The limitation in paragraph (b) of this provision does not apply to an institution of higher education if the Secretary of Defense determines that the institution has a long-standing policy of pacifism based on historical religious affiliation.

(d) *Representation.* By submission of its offer, the offeror represents that the institution does not have any policy or practice described in paragraph (b) of this clause, unless the Secretary of Defense has determined that the institution has a long-standing policy of pacifism based on historical religious affiliation.

(End of provision)

252.209-7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country.

As prescribed in [209.409](#), use the following clause:

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SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (DEC 2006)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$30,000 with a firm, or a subsidiary of a firm, that is identified in the Excluded Parties List System as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor and the compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(End of clause)

252.209-7005 Reserve Officer Training Corps and Military Recruiting on Campus.

As prescribed in [209.470-4\(b\)](#), use the following clause:

RESERVE OFFICER TRAINING CORPS AND MILITARY RECRUITING ON CAMPUS (MAR 2012)

(a) *Definition.* "Institution of higher education," as used in this clause, means an institution that meets the requirements of 20 U.S.C. 1001 and includes all subelements of such an institution.

(b) *Limitation.* Except as provided in paragraph (c) of this clause, the Contractor shall not, during performance of this contract, have any policy or practice that prohibits or in effect prevents—

(1) The Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (ROTC) (in accordance with 10 U.S.C. 654 and other applicable Federal laws) at that institution;

(2) A student at that institution from enrolling in a unit of the Senior ROTC at another institution of higher education;

(3) The Secretary of a military department or the Secretary of Transportation from gaining entry to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting; or

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(4) Military recruiters from accessing, for purposes of military recruiting, the following information pertaining to students (who are 17 years of age or older) enrolled at that institution:

- (i) Name.
- (ii) Address.
- (iii) Telephone number.
- (iv) Date and place of birth.
- (v) Educational level.
- (vi) Academic major.
- (vii) Degrees received.
- (viii) Most recent educational institution enrollment.

(c) *Exception.* The limitation in paragraph (b) of this clause does not apply to an institution of higher education if the Secretary of Defense determines that —

(1) The institution has ceased the policy or practice described in paragraph (b) of this clause; or

(2) The institution has a long-standing policy of pacifism based on historical religious affiliation.

(d) Notwithstanding any other clause of this contract, if the Secretary of Defense determines that the Contractor misrepresented its policies and practices at the time of contract award or has violated the prohibition in paragraph (b) of this clause—

(1) The Contractor will be ineligible for further payments under this and any other contracts with the Department of Defense; and

(2) The Government will terminate this contract for default for the Contractor's material failure to comply with the terms and conditions of award.

(End of clause)

252.209-7006 Limitations on Contractors Acting as Lead System Integrators.

As prescribed in [209.570-4\(a\)](#), use the following provision:

LIMITATIONS ON CONTRACTORS ACTING AS LEAD SYSTEM INTEGRATORS (JAN 2008)

(a) *Definitions.* “Lead system integrator,” “lead system integrator with system responsibility,” and “lead system integrator without system

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responsibility,” as used in this provision, have the meanings given in the clause of this solicitation entitled “Prohibited Financial Interests for Lead System Integrators” (DFARS [252.209-7007](#)).

(b) *General.* Unless an exception is granted, no contractor performing lead system integrator functions in the acquisition of a major system by the Department of Defense may have any direct financial interest in the development or construction of any individual system or element of any system of systems.

(c) *Representations.*

(1) The offeror represents that it does does not propose to perform this contract as a lead system integrator with system responsibility.

(2) The offeror represents that it does does not propose to perform this contract as a lead system integrator without system responsibility.

(3) If the offeror answered in the affirmative in paragraph (c)(1) or (2) of this provision, the offeror represents that it does does not have any direct financial interest as described in paragraph (b) of this provision with respect to the system(s), subsystem(s), system of systems, or services described in this solicitation.

(d) If the offeror answered in the affirmative in paragraph (c)(3) of this provision, the offeror should contact the Contracting Officer for guidance on the possibility of submitting a mitigation plan and/or requesting an exception.

(e) If the offeror does have a direct financial interest, the offeror may be prohibited from receiving an award under this solicitation, unless the offeror submits to the Contracting Officer appropriate evidence that the offeror was selected by a subcontractor to serve as a lower-tier subcontractor through a process over which the offeror exercised no control.

(f) This provision implements the requirements of 10 U.S.C. 2410p, as added by Section 807 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364).

(End of provision)

252.209-7007 Prohibited Financial Interests for Lead System Integrators.

As prescribed in [209.570-4](#)(b), use the following clause:

PROHIBITED FINANCIAL INTERESTS FOR LEAD SYSTEM INTEGRATORS (JUL 2009)

(a) *Definitions.* As used in this clause—

(1) “Lead system integrator” includes “lead system integrator with system responsibility” and “lead system integrator without system responsibility.”

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(2) “Lead system integrator with system responsibility” means a prime contractor for the development or production of a major system, if the prime contractor is not expected at the time of award to perform a substantial portion of the work on the system and the major subsystems.

(3) “Lead system integrator without system responsibility” means a prime contractor under a contract for the procurement of services, the primary purpose of which is to perform acquisition functions closely associated with inherently governmental functions (see section 7.503(d) of the Federal Acquisition Regulation) with respect to the development or production of a major system.

(b) *Limitations.* The Contracting Officer has determined that the Contractor meets the definition of lead system integrator with [] without [] system responsibility. Unless an exception is granted, the Contractor shall not have any direct financial interest in the development or construction of any individual system or element of any system of systems while performing lead system integrator functions in the acquisition of a major system by the Department of Defense under this contract.

(c) *Agreement.* The Contractor agrees that during performance of this contract it will not acquire any direct financial interest as described in paragraph (b) of this clause, or, if it does acquire or plan to acquire such interest, it will immediately notify the Contracting Officer. The Contractor further agrees to provide to the Contracting Officer all relevant information regarding the change in financial interests so that the Contracting Officer can determine whether an exception applies or whether the Contractor will be allowed to continue performance on this contract. If a direct financial interest cannot be avoided, eliminated, or mitigated to the Contracting Officer’s satisfaction, the Contracting Officer may terminate this contract for default for the Contractor’s material failure to comply with the terms and conditions of award or may take other remedial measures as appropriate in the Contracting Officer’s sole discretion.

(d) Notwithstanding any other clause of this contract, if the Contracting Officer determines that the Contractor misrepresented its financial interests at the time of award or has violated the agreement in paragraph (c) of this clause, the Government may terminate this contract for default for the Contractor’s material failure to comply with the terms and conditions of award or may take other remedial measures as appropriate in the Contracting Officer’s sole discretion.

(e) This clause implements the requirements of 10 U.S.C. 2410p, as added by Section 807 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364), and Section 802 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(End of clause)

252.209-7008, Notice of Prohibition Relating to Organizational Conflict

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of Interest—Major Defense Acquisition Program.

As prescribed in [209.571-8\(a\)](#), use the following provision:

NOTICE OF PROHIBITION RELATING TO ORGANIZATIONAL CONFLICT OF INTEREST—MAJOR DEFENSE ACQUISITION PROGRAM (DEC 2010)

(a) *Definitions.* “Major subcontractor” is defined in the clause at [252.209-7009, Organizational Conflict of Interest—Major Defense Acquisition Program.](#)

(b) This solicitation is for the performance of systems engineering and technical assistance for a major defense acquisition program or a pre-major defense acquisition program.

(c) *Prohibition.* As required by paragraph (b)(3) of section 207 of the Weapons System Acquisition Reform Act of 2009 (Pub. L. 111-23), if awarded the contract, the contractor or any affiliate of the contractor is prohibited from participating as a prime contractor or a major subcontractor in the development or production of a weapon system under the major defense acquisition program or pre-major defense acquisition program, unless the offeror submits, and the Government approves, an Organizational Conflict of Interest Mitigation Plan.

(d) *Request for an exception.* If the offeror requests an exception to the prohibition of paragraph (c) of this provision, then the offeror shall submit an Organizational Conflict of Interest Mitigation Plan with its offer for evaluation.

(e) *Incorporation of Organizational Conflict of Interest Mitigation Plan in contract.* If the apparently successful offeror submitted an acceptable Organizational Conflict of Interest Mitigation Plan, and the head of the contracting activity determines that DoD needs the domain experience and expertise of the highly qualified, apparently successful offeror in accordance with FAR 209.571-7(c), then the Contracting Officer will incorporate the Organizational Conflict of Interest Mitigation Plan into the resultant contract, and paragraph (d) of the clause at [252.209-7009](#) will become applicable.

(End of provision)

252.209-7009, Organizational Conflict of Interest—Major Defense Acquisition Program.

As prescribed in [209.571-8\(b\)](#), use the following clause:

ORGANIZATIONAL CONFLICT OF INTEREST— MAJOR DEFENSE ACQUISITION PROGRAM (DEC 2012)

(a) *Definition.*

“Major subcontractor,” as used in this clause, means a subcontractor that is awarded a subcontract that equals or exceeds—

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(1) Both the certified cost or pricing data threshold and 10 percent of the value of the contract under which the subcontracts are awarded; or

(2) \$50 million.

(b) This contract is for the performance of systems engineering and technical assistance for a major defense acquisition program or a pre-major defense acquisition program.

(c) *Prohibition.* Except as provided in paragraph (d) of this clause, as required by paragraph (b)(3) of section 207 of the Weapons System Acquisition Reform Act of 2009 (Pub. L. 111-23), the Contractor or any affiliate of the Contractor is prohibited from participating as a prime contractor or major subcontractor in the development or production of a weapon system under the major defense acquisition program or pre-major defense acquisition program.

(d) *Organizational Conflict of Interest Mitigation Plan.* If the Contractor submitted an acceptable Organizational Conflict of Interest Mitigation Plan that has been incorporated into this contract, then the prohibition in paragraph (c) of this clause does not apply. The Contractor shall comply with the Organizational Conflict of Interest Mitigation Plan. Compliance with the Organizational Conflict of Interest Mitigation Plan is a material requirement of the contract. Failure to comply may result in the Contractor or any affiliate of the Contractor being prohibited from participating as a contractor or major subcontractor in the development or production of a weapon system under the program, in addition to any other remedies available to the Government for noncompliance with a material requirement of a contract.

(End of clause)

252.209-7010 Critical Safety Items.

As prescribed in [209.270-5](#), use the following clause:

CRITICAL SAFETY ITEMS (AUG 2011)

(a) *Definitions.*

“Aviation critical safety item” means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause—

(i) A catastrophic or critical failure resulting in the loss of, or serious damage to, the aircraft or weapon system;

(ii) An unacceptable risk of personal injury or loss of life; or

(iii) An uncommanded engine shutdown that jeopardizes safety.

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“Design control activity” means—

(i) With respect to an aviation critical safety item, the systems command of a military department that is specifically responsible for ensuring the airworthiness of an aviation system or equipment, in which an aviation critical safety item is to be used; and

(ii) With respect to a ship critical safety item, the systems command of a military department that is specifically responsible for ensuring the seaworthiness of a ship or ship equipment, in which a ship critical safety item is to be used.

“Ship critical safety item” means any ship part, assembly, or support equipment containing a characteristic, the failure, malfunction, or absence of which could cause—

(i) A catastrophic or critical failure resulting in loss of, or serious damage to, the ship; or

(ii) An unacceptable risk of personal injury or loss of life.

(b) *Identification of critical safety items.* One or more of the items being procured under this contract is an aviation or ship critical safety item. The following items have been designated aviation critical safety items or ship critical safety items by the designated design control activity:

(Insert additional lines as necessary)

(c) *Heightened quality assurance surveillance.* Items designated in paragraph (b) of this clause are subject to heightened, risk-based surveillance by the designated quality assurance representative.

(End of clause)

252.209-7998 Representation Regarding Conviction of a Felony Criminal Violation under any Federal or State Law.

See [Class Deviation 2012-O0007](#), Prohibition Against Contracting with Corporations that Have a Felony Conviction, dated March 9, 2012. Contracting officers shall include the provision at 252.209-7998 in all solicitations that will use funds made available by Division H of the Consolidated Appropriations Act, 2012, including solicitations for acquisition of commercial items under FAR part 12, and shall apply the restrictions included in the deviation. This deviation is effective beginning March 9, 2012, and remains in effect until incorporated in

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the FAR or DFARS or otherwise rescinded.

252.209-7999 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under any Federal Law.

See [Class Deviation 2012-O0004](#), Prohibition Against Contracting With Corporations That Have an Unpaid Delinquent Tax Liability or a Felony Conviction under Federal Law, dated January 23, 2012. Contracting officers shall include this provision in all solicitations that will use funds made available by Division A of the Consolidated Appropriations Act, 2012, including solicitations for acquisition of commercial items under FAR part 12, and shall apply the restrictions included in the deviation. This deviation is effective beginning January 23, 2012, and remains in effect until incorporated in the FAR or DFARS or otherwise rescinded.