

# DARS PART 9 -- CONTRACTOR QUALIFICATIONS

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[SUBPART 209.1--RESPONSIBLE PROSPECTIVE CONTRACTORS](#)

[209.104-1 General standards.](#)

[SUBPART 9.2 -- QUALIFICATIONS REQUIREMENTS](#)

[9.202 Policy.](#)

[9.206 Acquisitions subject to qualification requirements.](#)

[9.206-1 General.](#)

[SUBPART 9.4 -- DEBARMENT, SUSPENSION, AND INELIGIBILITY](#)

[209.405 Effect of listing.](#)

[9.406-3 Procedures.](#)

[SUBPART 9.5 -- ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST](#)

[9.502 Applicability.](#)

[9.503 Waiver.](#)

[9.504 Contracting officer responsibilities.](#)

[9.508 Examples.](#)

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## PART 9 -- CONTRACTOR QUALIFICATIONS

### TABLE OF CONTENTS

[PART 9 -- CONTRACTOR QUALIFICATIONS 2](#)

[SUBPART 209.1--RESPONSIBLE PROSPECTIVE CONTRACTORS 2](#)

[209.104-1 General standards. 2](#)

[SUBPART 9.2 -- QUALIFICATIONS REQUIREMENTS 2](#)

[9.202 Policy. 2](#)

[9.206 Acquisitions subject to qualification requirements. 2](#)

[9.206-1 General. 2](#)

[SUBPART 9.4 -- DEBARMENT, SUSPENSION, AND INELIGIBILITY 2](#)

[209.405 Effect of listing. 2](#)

[9.406-3 Procedures. 3](#)

[SUBPART 9.5 -- ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST 3](#)

[9.502 Applicability. 3](#)

[9.503 Waiver. 3](#)

[9.504 Contracting officer responsibilities. 3](#)

[9.508 Examples. 3](#)

# **PART 9 -- CONTRACTOR QUALIFICATIONS**

## **SUBPART 209.1--RESPONSIBLE PROSPECTIVE CONTRACTORS**

### **209.104-1 General standards.**

(g)(i) *Ownership or control by the government of a country that is a state sponsor of terrorism.* Submit the request for advice to PSD/ PL2. PL2 will serve as the liaison between DISA and Deputy Director, DPAP/ Contract Policy and International Contracting (CPIC).

(ii) *Ownership or control by a foreign government when access to proscribed information is required.*

(C) Submit waiver request to PSD/PL2. PL2 serves as the liaison between DISA and DPAP.

## **SUBPART 9.2 – QUALIFICATIONS REQUIREMENTS**

### **9.202 Policy.**

(a)(1) The "designee" is the HCA.

(b) The "other official" is the HCA.

(e) The "designee" is the HCA.

### **9.206 Acquisitions subject to qualification requirements.**

#### **9.206-1 General.**

(b) The designee is the HCA.

(e)(3) Whenever a decision is made not to enforce a qualification requirement, the contracting officer shall request concurrence from the activity that established the requirement.

## **SUBPART 9.4 -- DEBARMENT, SUSPENSION, AND INELIGIBILITY**

### **209.405 Effect of listing.**

(a) The contracting officer shall provide a written determination explaining the compelling reason to continue to do business with contractors who are suspended or debarred to the [PL21](#)

[Policy Branch](#) for review and coordination with the HCA for approval before submitting it to GSA's Office of Acquisition Policy.

(b)(ii) The contracting officer shall provide a written determination for a Code "H" exemption to the [PL21 Policy Branch](#) for review and coordination with the HCA for approval before notifying the Environmental Protection Agency.

### **9.406-3 Procedures.**

(a) *Investigation and referral.* Refer any matter that may be a cause for debarment to the HCA. The HCA will submit all required information to the DISA GC.

## **SUBPART 9.5 -- ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST**

### **9.502 Applicability.**

(a) This subpart applies to all DISA's contracting organizations, prime contractors, and subcontractors.

### **9.503 Waiver.**

The designee is the HCA. The Procurement Integrity Act (PIA) Ombudsman shall review prior to HCA approval.

### **9.504 Contracting officer responsibilities.**

(a)(2) Review the contractor's Organizational and Consultant Conflicts of Interest Plan (OCCIP) to determine if a potential or actual conflict exists.

(d) Use the remediation procedures in FAR Subpart 9.506, if appropriate, to identify and evaluate potential conflict(s) of interest and/or to develop recommended actions. If a prime or subcontractor breaches any of the OCCI restrictions, does not disclose, and/or misrepresents any relevant facts required to be disclosed concerning the contract, the contracting officer may terminate the contract, disqualify the contractor from subsequent related contractual efforts, and pursue any remedies as may be permitted by the contract or law.

### **9.508 Examples.**

(S-90) Contractor participation in more than one of the following areas may give rise to an unfair

competitive advantage resulting from access to advance acquisition planning, source selection sensitive or proprietary information. Furthermore, contractor participation in more than one area may give rise to a real or apparent loss of contractor impartiality and objectivity where its advisory or planning assistance in one area potentially affects its present or future

participation in another area. The following is not an inclusive list, but represents some potential circumstances where OCCIs may occur:

(1) *Providing systems engineering, technical direction, or product support.* Services or end items required to meet the mission requirements of DISA's activities and programs. This includes, for example: concept exploration and development; system design/engineering; system development and integration; COTS procurement and integration; internal development testing; deployment; installation; operations; and maintenance. When a contractor provides such

services but does not have contractual responsibility for related development, integration, assembly or production for that system, that contractor is prohibited from competing either as a prime or subcontractor for a contract to supply that system.

(2) *Preparing specifications and work statements.* With certain exceptions, a contractor who assists with, prepares, and/or furnishes contract specifications for a government requirement may not compete for the subsequent award because this may give that contractor an unfair competitive advantage. This includes, for example: requirements analysis, acquisition support, budget planning and management, business process reengineering, program planning and execution support, and independent technical management support.

(3) *Providing evaluation services.* Contractors cannot evaluate their own proposals, products and services, or those of their market competitors whose development or marketing contractor is or has been substantially involved because the contractor is placed in a position whereby their judgment may be biased. For example, it would be inappropriate for a contractor to assist in the evaluation of proposals if it will financially benefit from the selection of one company over another. Further, increased attention should be given to situations where a contractor is in a position to assess or evaluate a competitor where detrimental findings could serve, directly or indirectly, the interest of the advising contractor. Therefore, all parties involved must ensure proper safeguards are taken and integrity of the process to protect the Government's best interest.

(4) *Obtaining access to proprietary information.* When a contractor requires proprietary information from others to perform on a Government contract and can use the leverage of the contract to obtain it, the contractor may gain an unfair competitive advantage unless restrictions are imposed. These restrictions protect the information and require companies to provide it

when appropriate and necessary for contract performance. For example, services which, by their very nature, give the contractor or subcontractor access to extensive data about the contracts of other DISA contractors. Such an advantage could be perceived as being unfair by a competing contractor who is not given similar access to the same relevant information.

(S-91) A sample OCCI memorandum for record template can be found at [https://www.ditco.disa.mil/DitcoContractingTemplates/doku.php?id=ko\\_organizational\\_conflict\\_of\\_interest\\_oci\\_memo\\_for\\_record\\_mfr\\_template](https://www.ditco.disa.mil/DitcoContractingTemplates/doku.php?id=ko_organizational_conflict_of_interest_oci_memo_for_record_mfr_template).