



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

OCT 15 2010

POLICY MEMO 10-C-15

MEMORANDUM FOR ALMAJCOM/DRU/FOA (Contracting)

FROM: SAF/AQC
1060 Air Force Pentagon
Washington, DC 20330-1060

SUBJECT: MAJCOM Air Force Federal Acquisition Regulation Supplements (AFFARS)

Effective 15 October 2010 there are no MAJCOM supplements to the AFFARS (see attached revision to AFFARS 5301.301). All Air Force contracting policy will be formally incorporated into the AFFARS and/or will be issued in a separate SAF/AQC memo. MAJCOMs/DRUs may continue to maintain specific procedures through the use of mandatory procedures or informational guidance.

The attached Organizational Conflict of Interest (OCI) clause and provision, previously prescribed in the AFMC FAR Supplement, are hereby temporarily incorporated into the AFFARS. Currently, two cases (FAR and DFARS) are being processed to address OCI issues. We anticipate that these cases will be finalized in the near future and result in the publication of OCI clauses and provisions in both the FAR and DFARS. When these cases are finalized the attached Air Force clause and provision will be rescinded.

In addition, AFFARS 5313.106-2(b)(3) is issued to provide mandatory procedures for Contracting Officers whenever they use Past Performance Information Retrieval System-Statistical Reporting (PPIRS-SR).

If you have any questions or concerns, please contact [REDACTED] (703) 588-7058, DSN 425-7058, [REDACTED]

[REDACTED]
Deputy Assistant Secretary (Contracting)
Assistant Secretary (Acquisition)

Attachments:

1. AFFARS 5301.301, Revised Language
2. AFFARS 5309.507-2, OCI Prescriptive Language
3. AFFARS 5352.209-9000, OCI Clause
4. AFFARS 5352.209-9001, Potential OCI Clause
5. AFFARS 5313.106-2(b)(3), New Language
6. AFFARS MP5315.3 / 5.5.2.1.3, New Language

PART 5301
Federal Acquisition Regulations System

[Revised October 14, 2010]

*** *Text omitted for the purpose of brevity.* ***

SUBPART 5301.3 — AGENCY ACQUISITION REGULATIONS

5301.301 Policy

The AFFARS is issued by the DAS(C) based on authority granted by [HAF MD 1-10, 8 Apr 09](#), and [ASAF\(A\) memorandum, Delegation of Contract and Agreement Authority, 12 Dec 06](#).

5301.303 Publication and Codification

(a) (i) The Air Force is assigned Chapter 53 of [Title 48 Code of Federal Regulations \(CFR\)](#). Air Force activities shall insert the number 53 before the primary citation in their FAR supplements. If the primary citation is to a single-digit part number, Air Force activities shall also insert a zero.

(ii) The AFFARS uses the DFARS numbering conventions.

5301.304 Agency Control and Compliance Procedures

FAR Supplements comply with the control and compliance procedures established in [FAR 1.3](#), as supplemented, and do not restrain the flexibilities found in the FAR, DFARS and/or AFFARS. MAJCOMs, DRUs, and AFISRA shall submit procurement policies, regulations, procedures, clauses, and forms that require approval by USD(AT&L)/DP to SAF/AQCP. The request shall include a detailed justification using the format in [DFARS 201.201-1](#). SAF/AQCP will arrange for publication in the Federal Register, if necessary. The requesting activity is responsible for evaluating public comments and preparing the final package for SAF/AQCP to submit to USD(AT&L)/DP.

*** *Text omitted for the purpose of brevity.* ***

PART 5309
Contractor Qualifications

[Revised October 14, 2010]

*** *Text omitted for the purpose of brevity.* ***

SUBPART 5309.5—ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST

5309.503 Waiver

The HCA is authorized to waive [FAR 9.5](#) requirements.

5309.507-2 Solicitation Provisions and Contract Clause

(a) In accordance with [FAR 9.507-2](#), insert the clause [5352.209-9000](#), Organizational Conflict of Interest, substantially as written, in Section I when the contractor's eligibility for future prime contract or subcontract awards shall be restricted because of services being provided as stated in [FAR 9.505-1 through -4](#).

(1) Insert the basic clause when the contractor will be providing systems engineering and/or technical direction. (See [FAR 9.505-1](#).)

(2) Insert the clause with its *Alternate I* when the contractor will be preparing specifications or work statements. (See [FAR 9.505-2](#).)

(3) Insert the clause with its *Alternate II* when the contractor will be providing technical evaluation or advisory and assistance services. (See [FAR 9.505-3](#).)

(4) Insert the clause with its *Alternate III* when the contractor will be obtaining access to proprietary information. (See [FAR 9.505-4](#).)

(5) Insert the clause with its *Alternate IV* when the contract is a task ordering contract and when more than one system is supported. The contracting officer may modify *Alternate IV* to include a list of systems for which task orders may be issued and indicate which organizational conflict of interest provision in paragraph (a)(2) shall apply.

(6) Insert the clause with its *Alternate V* when the contract provides for delivery orders. The contracting officer shall indicate in each delivery order which organizational conflict of interest provision in paragraph (a)(2) shall apply.

(7) Insert *Alternate VI* when it is necessary to have the restrictions of this clause included in all or some subcontracts, teaming arrangements, and other agencies calling for performance of work related to the contract.

(b) As prescribed in [FAR 9.507-1](#), insert in Section L the provision at [5352.209-9001](#), Potential Organizational Conflict of Interest, substantially as written.

PART 5352
Solicitation Provisions and Contract Clauses

[Revised October 14, 2010]

*** *Text omitted for the purpose of brevity.* ***

5352.209-9000 Organizational Conflict of Interest

As prescribed in [5309.507-2\(a\)](#), insert the following clause, substantially as written, in Section I:

ORGANIZATIONAL CONFLICT OF INTEREST (OCT 2010)

(a) The following restrictions and definitions apply to prevent conflicting roles which may bias the Contractor's judgment or objectivity, or to preclude the Contractor from obtaining an unfair competitive advantage in concurrent or future acquisitions.

(1) Descriptions or definitions:

"Contractor" means the business entity receiving the award of this contract, its parents, affiliates, divisions and subsidiaries.

"Development" means all efforts towards solution of broadly-defined problems. This may encompass research, evaluating technical feasibility, proof of design and test, or engineering of programs not yet approved for acquisition or operation.

"Proprietary Information" means all information designated as proprietary in accordance with law and regulation, and held in confidence or disclosed under restriction to prevent uncontrolled distribution. Examples include limited or restricted data, trade secrets, sensitive financial information, and computer software; and may appear in cost and pricing data or involve classified information.

"System" means the system that is the subject of this contract.

"System Life" means all phases of the system's development, production, or support.

"Systems Engineering" means preparing specifications, identifying and resolving interface problems, developing test requirements, evaluating test data, and supervising design.

"Technical Direction" means developing work statements, determining parameters, directing other Contractors' operations, or resolving technical controversies.

(2) Restrictions: The Contractor shall perform systems engineering and/or technical direction, but will not have overall contractual responsibility for the system's development, integration, assembly and checkout, or production. The parties recognize that the Contractor shall occupy a highly influential and

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PART 5352 — SOLICITATION PROVISIONS AND CONTRACT CLAUSES

responsible position in determining the system's basic concepts and supervising their execution by other Contractors. The Contractor's judgment and recommendations must be objective, impartial, and independent. To avoid the prospect of the Contractor's judgment or recommendations being influenced by its own products or capabilities, it is agreed that the Contractor is precluded for the life of the system from award of a DoD contract to supply the system or any of its major components, and from acting as a subcontractor or consultant to a DoD supplier for the system or any of its major components.

(End of clause)

ALTERNATE I (OCT 2010). As prescribed in [5309.507-2\(a\)\(2\)](#), either substitute paragraph (a)(2) of the basic clause with one or both of the following paragraphs, or use one or both in addition to the basic paragraph (a)(2). Use these paragraphs substantially as written.

(a)(2)(i) The Contractor shall prepare and submit complete specifications for nondevelopmental items to be used in a competitive acquisition. The Contractor shall not furnish these items to the DoD, either as a prime or subcontractor, for the duration of the initial production contract plus (insert a specific period of time or an expiration date).

(a)(2)(ii) The Contractor shall either prepare or assist in preparing a work statement for use in competitively acquiring the (identify the system or services), or provide material leading directly, predictably, and without delay to such a work statement. The Contractor may not supply (identify the services, the system, or the major components of the system) for a period (state the duration of the constraint, however, the duration of the initial production contract shall be the minimum), as either the prime or subcontractor unless it becomes the sole source, has participated in the design or development work, or more than one Contractor has participated in preparing the work statement.

ALTERNATE II (OCT 2010). As prescribed in [5309.507-2\(a\)\(3\)](#), either substitute paragraph (a)(2) of the basic clause with the following paragraph, or add the following in addition to the basic restriction. Renumber the paragraphs as needed if more than one restriction applies. Use this paragraph, substantially as written.

(a)(2) The Contractor shall participate in the technical evaluation of other Contractors' proposals or products. To ensure objectivity, the Contractor is precluded from award of any supply or service contract or subcontract for the system or its major components. This restriction shall be effective for (insert a definite period of time). This does not apply to other technical evaluations concerning the system.

ALTERNATE III (OCT 2010). As prescribed in [5309.507-2\(a\)\(4\)](#), add the following paragraph (b) to the basic clause substantially as written:

(b) The Contractor may gain access to proprietary information of other companies during contract performance. The Contractor agrees to enter into company-to-company agreements to: (1) protect another company's information from unauthorized use or disclosure for as long as it is considered proprietary by the other company; and, (2) to refrain from using the information for any purpose other than that for which it was furnished. For information purposes, the Contractor shall furnish copies of these agreements to the Contracting Officer. These agreements are not intended to protect information

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which is available to the Government or to the Contractor from other sources and furnished voluntarily without restriction.

ALTERNATE IV (OCT 2010). As prescribed in [5309.507-2\(a\)\(5\)](#), add the following paragraph (b) to the basic clause. If Alternate III is also used, renumber this to paragraph (c).

(b) The Contractor agrees to accept and to complete all issued task orders, and not to contract with Government prime Contractors or first-tier subcontractors in such a way as to create an organizational conflict of interest.

ALTERNATE V (OCT 2010). As prescribed in [5309.507-2\(a\)\(6\)](#), add the following paragraph (b) to the basic clause substantially as written. If more than one Alternate is used, renumber this paragraph accordingly.

(b) The Contractor agrees to accept and to complete issued delivery orders, provided that no new organizational conflicts of interest are created by the acceptance of that order. The Contracting Officer shall identify the organizational conflict of interest in each order. The Contractor shall not contract with Government prime Contractors or first-tier subcontractors in such a way as to create an organizational conflict of interest.

ALTERNATE VI (OCT 2010). As prescribed in [5309.507-2\(a\)\(7\)](#), add the following paragraph (b) to the basic clause substantially as written. If either Alternate III or IV or both are used, renumber this paragraph accordingly.

(b) The above restrictions shall be included in all subcontracts, teaming arrangements, and other agreements calling for performance of work which is subject to the organizational conflict of interest restrictions identified in this clause, unless excused in writing by the Contracting Officer.

***** Text omitted for the purpose of brevity. *****

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Solicitation Provisions and Contract Clauses

[Revised October 14, 2010]

***** Text omitted for the purpose of brevity. *****

5352.209-9001 Potential Organizational Conflict of Interest

As prescribed in [5309.507-2\(b\)](#), insert the following provision, substantially as written in Section L:

POTENTIAL ORGANIZATIONAL CONFLICT OF INTEREST (OCT 2010)

(a) There is potential organizational conflict of interest (see [FAR Subpart 9.5](#), Organizational and Consultant Conflicts of Interest) due to (state the nature of the proposed conflict). Accordingly:

- (1) Restrictions are needed to ensure that (state the nature of the proposed restraint and the applicable time period).
- (2) As a part of the proposal, the offeror shall provide the Contracting Officer with complete information of previous or ongoing work that is in any way associated with the contemplated acquisition.
- (b) If award is made to the offeror, the resulting contract may include an organizational conflict of interest limitation applicable to subsequent Government work, at either a prime contract level, at any subcontract tier, or both. During evaluation of proposals, the Government may, after discussions with the offeror and consideration of ways to avoid the conflict of interest, insert a special provision in the resulting contract which shall disqualify the offeror from further consideration for award of future contracts.
- (c) The organizational conflict of interest clause included in this solicitation may be modified or deleted during negotiations.

(End of provision)

ALTERNATE I (OCT 2010). At the discretion of the Contracting Officer, substitute the following paragraph (b) for paragraphs (b) and (c) in the basic provision:

- (b) The organizational conflict of interest clause in this solicitation may not be modified or deleted.

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PART 5313
Simplified Acquisition Procedures

[Revised October 14, 2010]

***** Text omitted for the purpose of brevity. *****

SUBPART 5313.1 — PROCEDURES

5313.106-1 Soliciting competition.

(b) A separate sole source justification is not required, if screening has been accomplished and documented under the DOD Spare Parts Breakout Program ([DFARS Appendix E](#)).

5313.106-2 Evaluation of quotations or offers.

(b) Evaluation procedures.

(3) When evaluating past performance in competitive, negotiated acquisitions of less than \$5M for commodities, contracting officers shall utilize the government-wide Past Performance Information Retrieval System - Statistical Reporting (PPIRS-SR). See paragraph 5.5.2.1.3 in MP5315.3 for solicitation language.

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Mandatory Procedure

MP5315.3 Source Selection

Revised October 14, 2010

*** Text omitted for the purpose of brevity. ***

5.5.2.1.3 When evaluating past performance in competitive, negotiated acquisitions of less than \$5M for commodities, contracting officers shall utilize the government-wide Past Performance Information Retrieval System-Statistical Reporting (PPIRS-SR). Insert solicitation language written substantially as follows in Section M:

(1) Quantifiable contractor quality and delivery performance data contained within the government-wide Past Performance Information Retrieval System-Statistical Reporting (PPIRS-SR) will be utilized in the evaluation of the past performance factor for offers received in response to this solicitation. Suppliers with no history in PPIRS-SR will be displayed to contracting officers without a rating.

(2) PPIRS-SR classifications are established monthly for each supplier and can be reviewed at <http://www.ppirs.gov>. Suppliers are granted access to PPIRS-SR for their own classifications. Offerors are encouraged to review their own classifications as well as the PPIRS-SR reporting procedures and methodology detailed in the PPIRS-SR Procedures Manual and the PPIRS-SR User Guide available at <http://www.ppirs.gov>. The method to challenge a rating is also found on the identified website.

Insert the appropriate language substantially as follows in Section M to identify whether the Standard or Best Value Assessment will be used, and if Best Value Assessment will be used with edited default values for quality, delivery and cost/price (other than weighted 1/3 each):

- (1) For purposes of this evaluation, the Standard Assessment will be used; or
- (2) For purposes of this evaluation, the Best Value Assessment will be used; or
- (3) The following Best Value Assessment weighting will be used resulting in a best offer ranking:

Quality	X%
Delivery	X%
Cost / Price	X%
	<hr/>
	100%

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