

- Amendment of the solicitation, at any time prior to award, including amendment of the evaluation factors and subfactors.
- Changes have been proposed to support streamlined source selections including:
 - A new definition of "best value" at Part 2, to remove confusion that may arise from several slightly different definitions. This supports the concept of presenting a single face to industry.
 - A description of two common source selection processes—award to the low cost technically acceptable offeror, and trade-offs among cost and other factors. The intent is to emphasize that a variety of processes can be used, that source selection need not be complex, and to promote tailoring of processes to match the complexity of the instant requirement. We hope this will allow field contracting activities to put resources where they will get the biggest pay-off and not make source selections more complicated than necessary.
 - Authorization to use techniques such as multi-phase proposals or oral presentations, once again to allow tailoring of the source selection process to match the requirement.
 - Guidance on communications between the Government and industry prior to release of the solicitation. Within the limitations of the prohibition on giving information necessary to prepare a proposal to one interested party without sharing the information with all other interested parties, agencies are encouraged to share information freely with industry. The improved communications should make it easier for potential offerors to make more aggressive bid/no bid decisions, thereby allowing them to apply their limited bid and proposal dollars where they will get the best potential pay-off.
 - A new Model Contract Format (MCF), based on an Army/Air Force proposal, that will replace the uniform contract format. The MCF format has only six sections, which focus on usefulness to the customer at all levels by highlighting tailored information and locating all financial and contract administration data together. We hope this will improve the payment process and make the document more "user-friendly."
 - A related proposed rule, FAR case 96-303, Competitive Range Determinations, was published in the Federal Register on July 31, 1996 (61 FR 40116). Since it is important to consider the proposed rule for FAR Case 96-303, Competitive Range Determinations, in the broader context of FAR Part 15 as a whole, the FAR Council has determined that comments about both cases may be

entertained during the second public meeting for the Part 15 Rewrite—Phase I. However, note that there are differences between the Competitive Range case and the FAR Part 15 Rewrite—Phase I case that are due primarily to the different baselines used. The Competitive Range case uses the baseline of the current FAR Parts 15 and 52, while the FAR Part 15 Rewrite—Phase I case proposes to reorganize and revise Parts 15 and 52. A final rule for the Competitive Range case will be issued well in advance of the final rule for the Part 15 Rewrite. Therefore, it may be viewed as an evolutionary step in a process that will culminate in the pending broader revision. Notwithstanding the minor differences between the cases, we encourage interested parties to express their positions on this rule as part of the second public meeting.

Dated: November 1, 1996.

Jeremy Olson,

Acting Director, Federal Acquisition Policy Division.

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ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1552

[FRL-5647-4]

Acquisition Regulation; Limitation of Future Contracting

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise its acquisition regulation (48 CFR Chapter 15) to clarify that the existing coverage regarding ineligibility of Headquarters policy support contractors to enter into EPA response action contracts, unless otherwise authorized by the Contracting Officer, also renders EPA response action contractors ineligible for award of Headquarters policy support contracts, unless otherwise authorized by the Contracting Officer.

DATE: Comments should be submitted not later than January 6, 1997.

ADDRESSES: Written comments should be submitted to the contact listed below at the following address: U.S. Environmental Protection Agency, Office of Acquisition Management (3802F), 401 M Street, SW., Washington, DC 20460. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to:

Senzel.Louise@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 format or ASCII file format. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed on-line at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: Louise Senzel, Environmental Protection Agency, Office of Acquisition Management (3802F), 401 M Street, SW., Washington, DC 20460. Telephone: (202) 260-6204.

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Regulation 9.504 requires Contracting Officers to analyze planned acquisitions to identify and evaluate potential organizational conflicts of interest, and to avoid, neutralize, or mitigate significant potential conflicts of interest (COI) before award. In addition, FAR 9.507-2(a) indicates that a contractor's eligibility for future prime contract or subcontract awards may be restricted as a condition of a contract award because of COI reasons. Two underlying conflict of interest principles as expressed in FAR 9.505 are to prevent the existence of conflicting roles that might bias a contractor's judgment and to prevent unfair competitive advantage.

EPAAR 1552.209-74, Alternate V, "Limitation of Future Contracting (Headquarters Support)", paragraph (b) states that if a Contractor, under the terms of a policy support contract, is required to develop specifications or statements of work that are later incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in the solicitation as a prime contractor or subcontractor under an ensuing EPA contract.

Additionally, the basic version of Alternate V states that Contractors performing Headquarters policy support work, during the life of the contract, will be ineligible to enter into a contract with EPA to perform response action work, unless otherwise authorized by the Contracting Officer. It would be inappropriate for a Contractor to participate in Headquarters policy support work, which may involve providing assistance in the policy development process for response action work, and then to perform the response action work which may be affected by the resulting policy for

which the Contractor provided assistance.

Similarly, in 1552.209-74, "Limitation of Future Contracting" (the basic clause and Alternates I, II, III, IV, and VI), Contractors are ineligible to enter into a contract or subcontract for response action contract projects for which the Contractor has developed the statement of work or the solicitation package.

Logically, and by implication, Contractors and subcontractors performing response action contracts would similarly be ineligible for the award of a Headquarters policy support contract or subcontract, unless otherwise authorized by the Contracting Officer. It would be inappropriate for a Contractor or subcontractor performing response action work to participate in a Headquarters policy support contract, as a prime contractor or a subcontractor, which may involve providing assistance in the policy development process for response action work. This amendment will make this ineligibility clear and definitive. The Agency does not consider this amendment a substantial change, since this amendment clarifies the existing ineligibility in Alternate V.

B. Executive Order 12866

The proposed rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

D. Regulatory Flexibility Act

The EPA certifies that this proposed rule does not exert a significant economic impact on a substantial number of small entities. The requirements to contractors under the proposed rule impose no reporting, recordkeeping, or any compliance costs.

E. Unfunded Mandates

This proposed rule will not impose unfunded mandates on state or local entities, or others.

F. Regulated Entities

EPA contractors are entities potentially affected by this action. Specifically, those entities competing under solicitations for negotiated procurements will be affected.

Category	Regulated entity
Industry	EPA contractors.

List of Subjects in 48 CFR Part 1552

Government procurement.

Therefore, 48 CFR Chapter 15 is proposed to be amended as set forth below:

1. The authority citation for part 1552 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1552.209-74 is amended by redesignating paragraphs (e), (f), (g), (h), and (i) as (f), (g), (h), (i), and (j) and by adding a new paragraph (e) to read as follows:

1552.209-74 Limitation of Future Contracting (XX 1996).

* * * * *

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

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3. Section 1552.209-74, Alternate I is amended by redesignating paragraphs (e), (f), (g), (h), and (i) as (f), (g), (h), (i), and (j) and by adding a new paragraph (e) to read as follows:

1552.209-74 Limitation of Future Contracting Alternate I (TCRR) (XX 1996).

* * * * *

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work, including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund

Technical and Analytical support contracts.

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4. Section 1552.209-74, Alternate II is amended by redesignating paragraphs (e), (f), (g), (h), and (i) as (f), (g), (h), (i), and (j) and by adding a new paragraph (e) to read as follows:

1552.209-74 Limitation of Future Contracting Alternate II (TAT) (XX 1996).

* * * * *

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work, including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

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5. Section 1552.209-74, Alternate III is amended by redesignating paragraphs (c), (d), (e), and (f) as (d), (e), (f), and (g) and by adding a new paragraph (c) to read as follows:

1552.209-74 Limitation of Future Contracting Alternate III (ESAT) (XX 1996).

* * * * *

(c) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work, including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless otherwise authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

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6. Section 1552.209-74, Alternate IV is amended by redesignating paragraphs (e), (f), (g), (h), and (i) as (f), (g), (h), (i), and (j) and by adding a new paragraph (e) to read as follows:

1552.209-74 Limitation of Future Contracting Alternate IV (TES) (XX 1996).

* * * * *

(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

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7. Section 1552.209-74, Alternate VI is amended by redesignating paragraphs (e), (f), (g), (h), (i), and (j) as (f), (g), (h), (i), (j), and (k) and by adding a new paragraph (e) to read as follows:

1552.209-74 Limitation of Future Contracting Alternate VI (Site Specific) (XX 1996).

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(e) The Contractor and any subcontractors, during the life of this contract, shall be ineligible to enter into an EPA contract or a subcontract under an EPA contract, which supports EPA's performance of Superfund Headquarters policy work including support for the analysis and development of

regulations, policies, or guidance that govern, affect, or relate to the conduct of response action activities, unless authorized by the Contracting Officer. Examples of such contracts include, but are not limited to, Superfund Management and Analytical support contracts, and Superfund Technical and Analytical support contracts.

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Dated: October 28, 1996.

Betty L. Bailey,
Director, Office of Acquisition Management.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[I.D. 071296D]

International Code of Conduct for Responsible Fisheries; Draft Implementation Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to modify a draft implementation plan.

SUMMARY: On July 25, 1996, NMFS announced the availability of a Draft Implementation Plan for the Code of Conduct for Responsible Fisheries (Plan) in the Federal Register and requested comments by September 23, 1996. Based upon these comments, NMFS has decided to redraft the Plan. When the revised draft Plan is completed, NMFS will again notify the public of its availability for comment.

ADDRESSES: Any questions regarding this notice of intent may be directed to Matt Milazzo, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Matt Milazzo, 301-713-2276.

SUPPLEMENTARY INFORMATION: For background and rationale for the Plan, please refer to the notice of availability published on July 25, 1996 (61 FR 38703).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 31, 1996.

Richard W. Surdi,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 96-28672 Filed 11-06-96; 8:45 am]

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