

Environmental Protection Agency

1509.170-3

**PART 1509—CONTRACTOR
QUALIFICATIONS**

**Subpart 1509.1—Responsible
Prospective Contractors**

Sec.

1509.000 Scope of part.

**Subpart 1509.1—Responsible Prospective
Contractors**

1509.105 Procedures.

**Subpart 1509.170—Contractor
Performance Evaluations**

1509.105 Procedures.

1509.170-1 Scope of subpart.

**Subpart 1509.170—Contractor
Performance Evaluations**

This subpart establishes EPA policy and procedures for evaluation of contractor performance. Contracting officers shall insert the contract clause at 1552.209-76 in all solicitations and contracts with an estimated dollar value in excess of \$100,000. For acquisitions involving options, the total estimated value of the acquisition shall include the estimated base amount plus the option(s) amount(s).

- 1509.170-1 Scope of subpart.
- 1509.170-2 Purpose.
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[49 FR 8839, Mar. 8, 1984, as amended at 64 FR 20202, Apr. 26, 1999]

**Subpart 1509.4—Debarment, Suspension
and Ineligibility**

1509.170-2 Purpose.

- 1509.403 Definitions.
- 1509.406 Debarment.
- 1509.406-3 Procedures.
- 1509.407 Suspension.
- 1509.407-3 Procedures.

This subpart provides guidance to program and contracting personnel regarding the evaluation of contractor performance. It establishes a uniform method for determining and recording the effectiveness of contractors in meeting contractual obligations. Additionally, this subpart details a systematic approach for identifying and maintaining records of contractors' performance histories.

[64 FR 20203, Apr. 26, 1999]

**Subpart 1509.5—Organizational Conflicts of
Interest**

1509.170-3 Applicability.

- 1509.500 Scope of subpart.
- 1509.502 Applicability.
- 1509.503 Waiver.
- 1509.505-4 Obtaining access to proprietary information.
- 1509.505-70 Information sources.
- 1509.507-1 Solicitation provisions.
- 1509.507-2 Contract clause.

(a) This subpart applies to all EPA acquisitions in excess of \$100,000, except for construction acquisitions, architect-engineer acquisitions, acquisitions awarded under the Federal Acquisition Regulation (FAR) Subpart 8.6, Acquisitions from Federal Prison Industries, Incorporated, FAR Subpart 8.7, Acquisitions from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled, and FAR 13.5, Test Program for Certain Commercial Items. FAR 36.201 and 36.604 provide detailed instructions for construction

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

SOURCE: 49 FR 8839, Mar. 8, 1984, unless otherwise noted.

1509.000 Scope of part.

This part implements FAR part 9 and provides policy and procedures pertaining to contractor's responsibility; debarment, suspension, and ineligibility; and organizational conflicts of interest.

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and architect-engineer contractor performance evaluations.

(b) The acquisition of commercial items in accordance with FAR 13.106 is not applicable to this subpart because simplified acquisition procedures do not require the creation or existence of a formal database for past performance evaluations. In cases where simplified acquisition procedures are not used to acquire commercial items (see FAR 12.203), this subpart is applicable to acquiring commercial items in excess of \$100,000.

(c) EPA Form 1900-26, Contracting Officer's Evaluation of Contractor Performance, and EPA Form 1900-27, Project Officer's Evaluation of Contractor Performance, shall apply to all performance evaluations completed prior to the effective date of this subpart. However, on the effective date of this rule, EPA Forms 1900-26 and 1900-27 are obsolete, and contracting officers shall complete all contractor performance evaluations by use of the National Institutes of Health's Contractor Performance System.

[64 FR 20203, Apr. 26, 1999]

1509.170-4 Definitions.

(a) *Contractor Performance Report* is an evaluation of a contractor's performance for a specified period of time.

(b) *Interim Report* refers to a Contractor Performance Report that covers each 12 month period after the effective date of contract.

(c) *Final Report* refers to a Contractor Performance Report that covers the last 12 months (or less) of contract performance.

(d) *Ratings* refer to the numerical scores for each performance category. Ratings are defined as follows: 0 = unsatisfactory, 1 = poor, 2 = fair, 3 = good, 4 = excellent, and 5 = outstanding.

(e) *Summary ratings* refer to the ratings determined by one level above the contracting officer regarding disagreements between the contractor and the contracting officer. Summary ratings reflect the Agency's ultimate conclusion for the performance period being evaluated.

(f) *Performance Categories* refer to the measures used to evaluate a contractor's performance. Performance categories are defined as quality, cost con-

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trol, timeliness of performance, and business relations.

[64 FR 20203, Apr. 26, 1999, as amended at 64 FR 41043, July 29, 1999]

1509.170-5 Policy.

(a) Contracting officers are responsible for the timely completion of contractors' performance evaluations. The National Institutes of Health Contractor Performance System shall be used to record individual contractor performance histories on EPA contracts and to obtain contractor past performance information for use in EPA's source selection process.

(b) Contracting officers are required to use the National Institutes of Health Contractor Performance System to record evaluations for all contract performance periods expiring after the effective date of this subpart.

(c) Contractor evaluation information shall be recorded in Contractor Performance Reports (Report) which are generated by the National Institutes of Health system. Reports shall cover individual contractor evaluations at the contract level, which includes all work assignments, task orders, or delivery orders associated with the 12 month period being evaluated (interim Report) or the last 12 months (or less) of contract performance (final Report).

(d) The contracting officer must complete interim Reports covering each 12 month period after the effective date of contract for all contracts in excess of \$100,000, except those acquisitions identified in 1509.170-3, Applicability. In addition to interim Reports, the contracting officer must complete a final Report which covers the last 12 months (or less) of contract performance.

(e) The contracting officer shall initiate the process for completing interim Reports within five (5) business days after the end of each 12 months of contract performance. The contracting officer shall initiate the process for completing a final Report within five (5) business days after the end of the last 12 months (or less) of contract performance. Final Reports must be completed prior to contract closeout.

(f) The contracting officer must complete interim and final Reports, including the project officer's evaluation of