

**Environmental Protection Agency**

**1509.170-3**

**PART 1509—CONTRACTOR  
QUALIFICATIONS**

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Prospective Contractors**

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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).

[49 FR 8839, Mar. 8, 1984, as amended at 64 FR 20202, Apr. 26, 1999]

**Subpart 1509.4—Debarment, Suspension  
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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  
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**1509.170-3 Applicability.**

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.

(a) This subpart applies to all EPA acquisitions in excess of \$100,000, except for 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 Non-profit Agencies Employing People Who Are Blind or Severely Disabled, and FAR 13.5, Test Program for Certain Commercial Items. FAR 36.604 provides detailed instructions for architect-engineer contractor performance evaluations.

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(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, applies to all performance evaluations completed prior to May 26, 1999. Thereafter, 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 in accordance with EPAAR paragraph (a) of this section.

(d) Construction acquisitions shall be completed by use of the NIH construction module. Performance evaluations for construction acquisitions shall be completed in accordance with EPAAR 1509.170-5.

[64 FR 20203, Apr. 26, 1999, as amended at 67 FR 66344, Oct. 31, 2002]

#### 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 conclu-

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sion for the performance period being evaluated.

(f) *Performance Categories* refer to the measures used to evaluate a contractor's performance. Performance categories include quality, cost control, timeliness of performance, business relations, compliance with labor standards, compliance with safety standards, and meeting Small Disadvantaged Business subcontracting requirements.

[64 FR 20203, Apr. 26, 1999, as amended at 64 FR 41043, July 29, 1999; 67 FR 66344, Oct. 31, 2002]

#### 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) For service type acquisitions, contracting officers shall use the National Institutes of Health (NIH) Contractor Performance System to record evaluations for all contract performance periods expiring after May 26, 1999. For construction type acquisitions, contracting officers shall use the NIH system to record evaluations for all contract performance periods expiring after December 2, 2002.

(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