

(D) In accordance with 10 U.S.C. 2536(b)(1)(B), the Secretary of Defense may, in the case of a contract awarded for environmental restoration, remediation, or waste management at a DoD facility, waive the prohibition in paragraph (g)(ii)(A) of this subsection upon—

(1) Determining that—

(i) The waiver will advance the environmental restoration, remediation, or waste management objectives of DoD and will not harm the national security interests of the United States; and

(ii) The entity to which the contract is awarded is controlled by a foreign government with which the Secretary is authorized to exchange Restricted Data under section 144c. of the Atomic Energy Act of 1954 (42 U.S.C. 2164(c)); and

(2) Notifying Congress of the decision to grant the waiver. The contract may be awarded only after the end of the 45-day period beginning on the date the notification is received by the appropriate Congressional committees.

[58 FR 28464, May 13, 1993, as amended at 59 FR 51131, 51132, Oct. 7, 1994; 60 FR 29497, June 5, 1995; 62 FR 34121, June 24, 1997; 63 FR 11851, Mar. 11, 1998; 63 FR 14837, Mar. 27, 1998; 65 FR 39704, June 27, 2000; 67 FR 4208, Jan. 29, 2002; 68 FR 7439, Feb. 14, 2003]

209.104-4 Subcontractor responsibility.

Generally, the Canadian Commercial Corporation's (CCC) proposal of a firm as its subcontractor is sufficient basis for an affirmative determination of responsibility. However, when the CCC determination of responsibility is not consistent with other information available to the contracting officer, the contracting officer shall request from CCC and any other sources whatever additional information is necessary to make the responsibility determination.

209.104-70 Solicitation provisions.

(a) Use the provision at 252.209-7001, Disclosure of Ownership or Control by the Government of a Terrorist Country, in all solicitations expected to result in contracts of \$100,000 or more. Any disclosure that the government of a terrorist country has a significant interest in an offeror or a subsidiary of

an offeror shall be forwarded through the head of the agency to the Director of Defense Procurement and Acquisition Policy, ATTN: OUSD(AT&L)DPAP/(PAIC), 3060 Defense Pentagon, Washington, DC 20101-3060.

(b) Use the provision at 252.209-7002, Disclosure of Ownership or Control by a Foreign Government, in all solicitations, including those subject to the procedures in FAR part 13, when access to proscribed information is necessary to perform a DoD contract under a national security program.

[58 FR 28464, May 13, 1993, as amended at 59 FR 51131, Oct. 7, 1994; 62 FR 34122, June 24, 1997; 63 FR 11851, Mar. 11, 1998; 63 FR 14837, Mar. 27, 1998; 65 FR 39704, June 27, 2000; 67 FR 4208, Jan. 29, 2002; 68 FR 7439, Feb. 14, 2003]

209.105-1 Obtaining information.

For guidance on using the Excluded Parties List System, see PGI 209.105-1. [71 FR 14100, Mar. 21, 2006]

§ 209.105-2 Determinations and documentation.

(a) For guidance on submission of determinations to the appropriate debarring and suspending official, see PGI 209.105-2(a).

[69 FR 74990, Dec. 15, 2004]

209.106 Preaward surveys.

When requesting a preawarded survey, follow the procedures at PGI 209.106.

[69 FR 65089, Nov. 10, 2004]

Subpart 209.2—Qualifications Requirements

209.202 Policy.

(a)(1) Except for aviation critical safety items, obtain approval in accordance with PGI 209.202(a)(1) when establishing qualification requirements. See 209.270 for approval of qualification requirements for aviation critical safety items.

[69 FR 65089, Nov. 10, 2004]

209.270 Aviation critical safety items.

209.270-1 Scope.

This section—

209.270-2

(a) Implements Section 802 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136); and

(b) Prescribes policy and procedures for qualification requirements in the procurement of aviation critical safety items and the modification, repair, and overhaul of those items.

[69 FR 55988, Sept. 17, 2004]

209.270-2 Definitions.

As used in this section—

Aviation critical safety item means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause—

(1) A catastrophic or critical failure resulting in the loss of or serious damage to the aircraft or weapon system;

(2) An unacceptable risk of personal injury or loss of life; or

(3) An uncommanded engine shutdown that jeopardizes safety.

Design control activity means the systems command of a military department that is specifically responsible for ensuring the air worthiness of an aviation system or equipment in which an aviation critical safety item is to be used.

[69 FR 55988, Sept. 17, 2004]

209.270-3 Policy.

(a) The head of the contracting activity responsible for procuring an aviation critical safety item may enter into a contract for the procurement, modification, repair, or overhaul of such an item only with a source approved by the head of the design control activity.

(b) The approval authorities specified in this section apply instead of those otherwise specified in FAR 9.202(a)(1), 9.202(c), or 9.206-1(c), for the procurement, modification, repair, and overhaul of aviation critical safety items.

[69 FR 55988, Sept. 17, 2004, as amended at 70 FR 57190, Sept. 30, 2005]

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209.270-4 Procedures.

(a) The head of the design control activity shall—

(1) Identify items that meet the criteria for designation as aviation critical safety items. See additional information at PGI 209.270-4;

(2) Approve qualification requirements in accordance with procedures established by the design control activity; and

(3) Qualify and identify aviation critical safety item suppliers and products.

(b) The contracting officer shall—

(1) Ensure that the head of the design control activity has determined that a prospective contractor or its product meets or can meet the established qualification standards before the date specified for award of the contract;

(2) Refer any offers received from an unapproved source to the head of the design control activity for approval. The head of the design control activity will determine whether the offeror or its product meets or can meet the established qualification standards before the date specified for award of the contract; and

(3) Refer any requests for qualification to the design control activity.

(c) See 246.407 (S-70) and 246.504 for quality assurance requirements.

[69 FR 55988, Sept. 17, 2004, as amended at 70 FR 57190, Sept. 30, 2005]

Subpart 209.3 [Reserved]

Subpart 209.4—Debarment, Suspension, and Ineligibility

209.402 Policy.

(d) The uniform suspension and debarment procedures to be followed by all debarring and suspending officials are set out in appendix H to this chapter.

(e) The department or agency shall provide a copy of the Debarment and Suspension Procedures at DFARS appendix H to this chapter to contractors at the time of their suspension or when they are proposed for debarment, and upon request to other interested parties.

[59 FR 27668, May 27, 1994]