

(1) The institution has ceased the policy or practice described in paragraph (b) of this clause; or

(2) The institution has a long-standing policy of pacifism based on historical religious affiliation.

(d) Agreement. The Contractor represents that it does not now have, and agrees that during performance of this contract it will not adopt, any policy or practice described in paragraph (b) of this clause, unless the Secretary of Defense has granted an exception in accordance with paragraph (c)(2) of this clause.

(e) Notwithstanding any other clause of this contract, if the Secretary of Defense determines that the Contractor misrepresented its policies and practices at the time of contract award or has violated the agreement in paragraph (d) of this clause—

(1) The Contractor will be ineligible for further payments under this and any other contracts with the Department of Homeland Security; and

(2) The Government will terminate this contract for default for the Contractor's material failure to comply with the terms and conditions of award.

(End of clause)

3052.209-72 Organizational conflict of interest.

As prescribed in (HSAR) 48 CFR 3009.507-1, insert the following provision:

ORGANIZATIONAL CONFLICT OF INTEREST (JUN 2006)

(a) Determination. The Government has determined that this effort may result in an actual or potential conflict of interest, or may provide one or more offerors with the potential to attain an unfair competitive advantage. The nature of the conflict of interest and the limitation on future contracting ____ [“contracting officer shall insert description here”]. ____

(b) If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include the appropriate provisions to avoid, neutralize, mitigate, or waive such conflict in the contract awarded. After discussion with the offeror, the Contracting Officer may determine that the actual conflict cannot be avoided, neutralized, mitigated or otherwise resolved to the satisfaction of the Government, and the offeror may be found ineligible for award.

(c) Disclosure: The offeror hereby represents, to the best of its knowledge that:

__ (1) It is not aware of any facts which create any actual or potential organizational con-

flicts of interest relating to the award of this contract, or

__ (2) It has included information in its proposal, providing all current information bearing on the existence of any actual or potential organizational conflicts of interest, and has included a mitigation plan in accordance with paragraph (d) of this provision.

(d) Mitigation. If an offeror with a potential or actual conflict of interest or unfair competitive advantage believes the conflict can be avoided, neutralized, or mitigated, the offeror shall submit a mitigation plan to the Government for review. Award of a contract where an actual or potential conflict of interest exists shall not occur before Government approval of the mitigation plan. If a mitigation plan is approved, the restrictions of this provision do not apply to the extent defined in the mitigation plan.

(e) Other Relevant Information: In addition to the mitigation plan, the Contracting Officer may require further relevant information from the offeror. The Contracting Officer will use all information submitted by the offeror, and any other relevant information known to DHS, to determine whether an award to the offeror may take place, and whether the mitigation plan adequately neutralizes or mitigates the conflict.

(f) Corporation Change. The successful offeror shall inform the Contracting Officer within thirty (30) calendar days of the effective date of any corporate mergers, acquisitions, and/or divestitures that may affect this provision.

(g) Flow-down. The contractor shall insert the substance of this clause in each first tier subcontract that exceeds the simplified acquisition threshold.

(End of provision)

[71 FR 25774, May 2, 2006]

3052.209-73 Limitation of future contracting.

As prescribed in (HSAR) 48 CFR 3009.507-2, the contracting officer may insert a clause substantially as follows in solicitations and contracts:

LIMITATION OF FUTURE CONTRACTING (JUN 2006)

(a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the attention of prospective offerors is invited to FAR Subpart 9.5—Organizational Conflicts of Interest.

(b) The nature of this conflict is [describe the conflict].

(c) The restrictions upon future contracting are as follows:

(1) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required