

### 209.570-3

(b) The prohibition in paragraph (a) of this subsection does not apply if—

(1) The Secretary of Defense certifies to the Committees on Armed Services of the Senate and the House of Representatives that—

(i) The entity was selected by DoD as a contractor to develop or construct the system or element concerned through the use of competitive procedures; and

(ii) DoD took appropriate steps to prevent any organizational conflict of interest in the selection process; or

(2) The entity was selected by a subcontractor to serve as a lower-tier subcontractor, through a process over which the entity exercised no control.

(c) In accordance with Section 802 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), DoD may award a new contract for lead system integrator functions in the acquisition of a major system only if—

(1) The major system has not yet proceeded beyond low-rate initial production; or

(2) The Secretary of Defense determines in writing that it would not be practicable to carry out the acquisition without continuing to use a contractor to perform lead system integrator functions and that doing so is in the best interest of DoD. The authority to make this determination may not be delegated below the level of the Under Secretary of Defense for Acquisition, Technology, and Logistics. (*Also see* 209.570-3(b).)

(d) Effective October 1, 2010, DoD is prohibited from awarding a new contract for lead system integrator functions in the acquisition of a major system to any entity that was not performing lead system integrator functions in the acquisition of the major system prior to January 28, 2008.

[73 FR 1824, Jan. 10, 2008, as amended at 74 FR 34268, July 15, 2009]

### 209.570-3 Procedures.

(a) In making a responsibility determination before awarding a contract for the acquisition of a major system, the contracting officer shall—

(1) Determine whether the prospective contractor meets the definition of “lead system integrator”;

### 48 CFR Ch. 2 (10-1-10 Edition)

(2) Consider all information regarding the prospective contractor’s direct financial interests in view of the prohibition at 209.570-2(a); and

(3) Follow the procedures at PGI 209.570-3.

(b) A determination to use a contractor to perform lead system integrator functions in accordance with 209.570-2(c)(2)—

(1) Shall specify the reasons why it would not be practicable to carry out the acquisition without continuing to use a contractor to perform lead system integrator functions, including a discussion of alternatives, such as use of the DoD workforce or a system engineering and technical assistance contractor;

(2) Shall include a plan for phasing out the use of contracted lead system integrator functions over the shortest period of time consistent with the interest of the national defense; and

(3) Shall be provided to the Committees on Armed Services of the Senate and the House of Representatives at least 45 days before the award of a contract pursuant to the determination.

[74 FR 34268, July 15, 2009]

### 209.570-4 Solicitation provision and contract clause.

(a) Use the provision at 252.209-7006, Limitations on Contractors Acting as Lead System Integrators, in solicitations for the acquisition of a major system when the acquisition strategy envisions the use of a lead system integrator.

(b) Use the clause at 252.209-7007, Prohibited Financial Interests for Lead System Integrators—

(1) In solicitations that include the provision at 252.209-7006; and

(2) In contracts when the contractor will fill the role of a lead system integrator for the acquisition of a major system.

## PART 210—MARKET RESEARCH

AUTHORITY: 41 U.S.C. 421 and 48 CFR Chapter 1.

### 210.001 Policy.

(a) In addition to the requirements of FAR 10.001(a), agencies shall—

(i) Conduct market research appropriate to the circumstances before—

(A) Soliciting offers for acquisitions that could lead to a consolidation of contract requirements as defined in 207.170-2; or

(B) Issuing a solicitation with tiered evaluation of offers (Section 816 of Public Law 109-163); and

(ii) Use the results of market research to determine—

(A) Whether consolidation of contract requirements is necessary and justified in accordance with §207.170-3; or

(B) Whether the criteria in FAR part 19 are met for setting aside the acquisition for small business or, for a task or delivery order, whether there are a sufficient number of qualified small business concerns available to justify limiting competition under the terms of the contract. If the contracting officer cannot determine whether the criteria are met, the contracting officer shall include a written explanation in the contract file as to why such a determination could not be made (Section 816 of Public Law 109-163).

(c)(2) In addition to the notification requirements at FAR 10.001(c)(2)(i) and (ii), see 205.205-70 for the bundling notification publication requirement.

[71 FR 53043, Sept. 8, 2006, as amended at 75 FR 40716, ≤July 13, 2010]

**PART 211—DESCRIBING AGENCY NEEDS**

Sec.  
211.002 Policy.  
211.002-70 Contract clause.

**Subpart 211.1—Selecting and Developing Requirements Documents**

211.105 Items peculiar to one manufacturer.  
211.106 Purchase descriptions for service contracts.  
211.107 Solicitation provision.

**Subpart 211.2—Using and Maintaining Requirements Documents**

211.201 Identification and availability of specifications.  
211.204 Solicitation provisions and contract clauses.  
211.270 [Reserved]  
211.271 Elimination of use of class I ozone-depleting substances.

211.272 Alternate preservation, packaging, and packing.  
211.273 Substitutions for military or Federal specifications and standards.  
211.273-1 Definition.  
211.273-2 Policy.  
211.273-3 Procedures.  
211.273-4 Contract clause.  
211.274 Item identification and valuation requirements.  
211.274-1 General.  
211.274-2 Policy for unique item identification.  
211.274-3 Policy for valuation.  
211.274-4 Policy for reporting of Government-furnished equipment in the DoD Item Unique Identification (IUID) Registry.  
211.274-5 Policy for assignment of Government-assigned serial numbers.  
211.274-6 Contract clauses.  
211.275 Radio frequency identification.  
211.275-1 Definitions.  
211.275-2 Policy.  
211.275-3 Contract clause.

**Subpart 211.5—Liquidated Damages**

211.503 Contract clauses.

**Subpart 211.6—Priorities and Allocations**

211.602 General.

AUTHORITY: 41 U.S.C. 421 and 48 CFR Chapter 1.

SOURCE: 60 FR 61594, Nov. 30, 1995, unless otherwise noted.

**211.002 Policy.**

All defense technology and acquisition programs in DoD are subject to the policies and procedures in DoDD 5000.1, The Defense Acquisition System, and DoDI 5000.2, Operation of the Defense Acquisition System.

[71 FR 27641, May 12, 2006]

**211.002-70 Contract clause.**

Use the clause at 252.211-7000, Acquisition Streamlining, in all

**Subpart 211.1—Selecting and Developing Requirements Documents**

**211.105 Items peculiar to one manufacturer.**

Follow the publication requirements at PGI 211.105.

[70 FR 23804, May 5, 2005]