

(b) The following procurement actions are considered noncompetitive for the purposes of this policy:

(1) Contracts awarded noncompetitively under the Small Business Administration's 8(a) Program;

(2) Individual task orders if the former employee was not identified as "key personnel" in a proposal which was evaluated under competitive procedures;

(3) Unsolicited proposals;

(4) Subcontracts that require review for the purpose of granting consent under NRC prime contracts.

(c) The term *NRC employee* includes special Government employees performing services for NRC as experts, advisors, consultants, or members of advisory committees, if—

(1) The contract arises directly out of the individual's activity as a special employee;

(2) The individual is in a position to influence the award of the contract; or

(3) The Contracting Officer determines that another conflict of interest exists.

(d) A justification explaining why it is in the best interest of the Government to contract with an individual or firm described in paragraphs (a) and (b) of this section on a noncompetitive basis may be approved by the Senior Procurement Executive after consulting with the Executive Director for Operations. This is in addition to any justification and approvals which may be required by the FAR for use of other than full and open competition.

(e) Nothing in this policy statement relieves former employees from obligations prescribed by law, such as 18 U.S.C. 207, Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches.

#### **2009.105-70 Contract provisions.**

The contracting officer shall insert the following provisions in all solicitations:

(a) Section 2052.209-70 Current/Former Agency Employee Involvement.

### **Subpart 2009.4—Debarment, Suspension, and Ineligibility**

#### **2009.403 Definitions.**

As used in 2009.4:

*Debarring official* means the Senior Procurement Executive.

*Suspending official* means the Senior Procurement Executive.

#### **2009.404 Consolidated list of parties excluded from Federal procurement or non-procurement programs.**

The contracting officer responsible for the contract affected by the debarment or suspension shall perform the actions required by FAR 9.404(c) (1) through (6).

#### **2009.405 Effect of listing.**

Compelling reasons are considered to be present where failure to contract with the debarred or suspended contractor would seriously harm the agency's programs and prevent accomplishment of mission requirements. The Senior Procurement Executive is authorized to make the determinations under FAR 9.405. Requests for these determinations must be submitted from the Head of the Contracting Activity, through the Director, Office of Administration, to the Senior Procurement Executive.

#### **2009.405-1 Continuation of current contracts.**

The Head of the Contracting Activity is authorized to make the determination to continue contracts or subcontracts in existence at the time the contractor was debarred, suspended, or proposed for debarment in accordance with FAR 9.405-1.

#### **2009.405-2 Restrictions on subcontracting.**

The Head of the Contracting Activity is authorized to approve subcontracts with debarred or suspended subcontractors under FAR 9.405-2.

#### **2009.406 Debarment.**

#### **2009.406-3 Procedures.**

(a) *Investigation and referral.* (1) When a contracting officer becomes aware of possible irregularities or any information which may be sufficient cause for