

209.471 Congressional Medal of Honor.

In accordance with Section 8118 of Pub. L. 105-262, do not award a contract to, extend a contract with, or approve the award of a subcontract to any entity that, within the preceding 15 years, has been convicted under 18 U.S.C. 704 of the unlawful manufacture or sale of the Congressional Medal of Honor. Any entity so convicted will be listed as ineligible on the List of Parties Excluded from Federal Procurement and Non-procurement Programs published by the General Services Administration.

[64 FR 31733, June 14, 1999]

Subpart 209.5—Organizational and Consultant Conflicts of Interest

SOURCE: 73 FR 1824, Jan. 10, 2008, unless otherwise noted.

209.505 General rules.

209.505-4 Obtaining access to proprietary information.

(b) Non-disclosure requirements for contractors accessing third party proprietary technical data or computer software are addressed at 227.7103-7(b), through use of the clause at 252.227-7025 as prescribed at 227.7103-6(c) and 227.7203-6(d). Pursuant to that clause, covered Government support contractors may be required to enter into non-disclosure agreements directly with the third party asserting restrictions on limited rights technical data, commercial technical data, or restricted rights computer software.

[76 FR 11367, Mar. 2, 2011]

209.570 Limitations on contractors acting as lead system integrators.

209.570-1 Definitions.

Lead system integrator, as used in this section, is defined in the clause at 252.209-7007, Prohibited Financial Interests for Lead System Integrators. See PGI 209.570-1 for additional information.

209.570-2 Policy.

(a) Except as provided in paragraph (b) of this subsection, 10 U.S.C. 2410p prohibits any entity performing lead

system integrator functions in the acquisition of a major system by DoD from having any direct financial interest in the development or construction of any individual system or element of any system of systems.

(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