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**PART 1509—CONTRACTOR
QUALIFICATIONS**

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AUTHORITY: Sec. 205(c), 63 Stat. 390, as
amended, 40 U.S.C. 486(c).

SOURCE: 49 FR 8839, Mar. 8, 1984, unless oth-
erwise noted.

1509.000 Scope of part.

This part implements FAR part 9 and
provides policy and procedures per-
taining to contractor's responsibility;
debarment, suspension, and ineligi-
bility; and organizational conflicts of
interest.

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**Subpart 1509.1—Responsible
Prospective Contractors**

1509.105 Procedures.

**Subpart 1509.170—Contractor
Performance Evaluations**

EFFECTIVE DATE NOTE: At 76 FR 39017, July
5, 2011, subpart 1509.170 was removed, effec-
tive October 3, 2011.

1509.170-1 Scope of subpart.

This subpart establishes EPA policy
and procedures for evaluation of con-
tractor performance. Contracting offi-
cers shall insert the contract clause at
1552.209-76 in all solicitations and con-
tracts with an estimated dollar value
in excess of \$100,000. For acquisitions
involving options, the total estimated
value of the acquisition shall include
the estimated base amount plus the op-
tion(s) amount(s).

[49 FR 8839, Mar. 8, 1984, as amended at 64 FR
20202, Apr. 26, 1999]

1509.170-2 Purpose.

This subpart provides guidance to
program and contracting personnel re-
garding the evaluation of contractor
performance. It establishes a uniform
method for determining and recording
the effectiveness of contractors in
meeting contractual obligations. Addi-
tionally, this subpart details a system-
atic approach for identifying and main-
taining records of contractors' per-
formance histories.

[64 FR 20203, Apr. 26, 1999]

1509.170-3 Applicability.

(a) This subpart applies to all EPA
acquisitions in excess of \$100,000, ex-
cept for architect-engineer acquisi-
tions, acquisitions awarded under the
Federal Acquisition Regulation (FAR)
Subpart 8.6, Acquisitions from Federal
Prison Industries, Incorporated, FAR
Subpart 8.7, Acquisitions from Non-
profit Agencies Employing People Who
Are Blind or Severely Disabled, and
FAR 13.5, Test Program for Certain
Commercial Items. FAR 36.604 provides
detailed instructions for architect-en-
gineer contractor performance evalua-
tions.

Environmental Protection Agency

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(b) The acquisition of commercial items in accordance with FAR 13.106 is not applicable to this subpart because simplified acquisition procedures do not require the creation or existence of a formal database for past performance evaluations. In cases where simplified acquisition procedures are not used to acquire commercial items (see FAR 12.203), this subpart is applicable to acquiring commercial items in excess of \$100,000.

(c) EPA Form 1900-26, Contracting Officer's Evaluation of Contractor Performance, and EPA Form 1900-27, Project Officer's Evaluation of Contractor Performance, applies to all performance evaluations completed prior to May 26, 1999. Thereafter, EPA Forms 1900-26 and 1900-27 are obsolete, and contracting officers shall complete all contractor performance evaluations by use of the National Institutes of Health's Contractor Performance System in accordance with EPAAR paragraph (a) of this section.

(d) Construction acquisitions shall be completed by use of the NIH construction module. Performance evaluations for construction acquisitions shall be completed in accordance with EPAAR 1509.170-5.

[64 FR 20203, Apr. 26, 1999, as amended at 67 FR 66344, Oct. 31, 2002]

1509.170-4 Definitions.

(a) *Contractor Performance Report* is an evaluation of a contractor's performance for a specified period of time.

(b) *Interim Report* refers to a Contractor Performance Report that covers each 12 month period after the effective date of contract.

(c) *Final Report* refers to a Contractor Performance Report that covers the last 12 months (or less) of contract performance.

(d) *Ratings* refer to the numerical scores for each performance category. Ratings are defined as follows: 0 = unsatisfactory, 1 = poor, 2 = fair, 3 = good, 4 = excellent, and 5 = outstanding.

(e) *Summary ratings* refer to the ratings determined by one level above the contracting officer regarding disagreements between the contractor and the contracting officer. Summary ratings reflect the Agency's ultimate conclu-

sion for the performance period being evaluated.

(f) *Performance Categories* refer to the measures used to evaluate a contractor's performance. Performance categories include quality, cost control, timeliness of performance, business relations, compliance with labor standards, compliance with safety standards, and meeting Small Disadvantaged Business subcontracting requirements.

[64 FR 20203, Apr. 26, 1999, as amended at 64 FR 41043, July 29, 1999; 67 FR 66344, Oct. 31, 2002]

1509.170-5 Policy.

(a) Contracting officers are responsible for the timely completion of contractors' performance evaluations. The National Institutes of Health Contractor Performance System shall be used to record individual contractor performance histories on EPA contracts and to obtain contractor past performance information for use in EPA's source selection process.

(b) For service type acquisitions, contracting officers shall use the National Institutes of Health (NIH) Contractor Performance System to record evaluations for all contract performance periods expiring after May 26, 1999. For construction type acquisitions, contracting officers shall use the NIH system to record evaluations for all contract performance periods expiring after December 2, 2002.

(c) Contractor evaluation information shall be recorded in Contractor Performance Reports (Report) which are generated by the National Institutes of Health system. Reports shall cover individual contractor evaluations at the contract level, which includes all work assignments, task orders, or delivery orders associated with the 12 month period being evaluated (interim Report) or the last 12 months (or less) of contract performance (final Report).

(d) The contracting officer must complete interim Reports covering each 12 month period after the effective date of contract for all contracts in excess of \$100,000, except those acquisitions identified in 1509.170-3, Applicability. In addition to interim Reports, the contracting officer must complete a final