

## Homeland Security Department

3009.570-2

(4) Military recruiters from accessing certain information pertaining to students enrolled at that institution.

(b) The prohibition in paragraph (a) of this subsection does not apply to an institution of higher education if the Secretary of Defense determines that—

(1) The institution (and each subelement of that institution) has ceased the policy or practice described in paragraph (a) of this subsection; or

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

### 3009.470-3 Procedures.

Whenever the Secretary of Defense determines that an institution of higher education (including any subelement of such institution) is ineligible and the provisions of 10 U.S.C. 983 apply:

(a) The Secretary of Defense will list the institution on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs published by the General Services Administration (also see (FAR) 48 CFR 9.404 and 32 CFR part 216); and

(b) The Department of Homeland Security—

(1) Shall not solicit offers from, award contracts to, or consent to subcontracts with the institution;

(2) Shall make no further payments under existing contracts with the institution; and

(3) Shall terminate existing contracts with the institution.

### 3009.470-4 Contract clause.

Insert the clause at (HSAR) 48 CFR 3052.209-71, Reserve Officer Training Corps and Military Recruiting on Campus, in all solicitations and contracts with institutions of higher education.

[68 FR 67871, Dec. 4, 2003, as amended at 71 FR 25769, May 2, 2006]

## Subpart 3009.5—Organizational and Consultant Conflicts of Interest

### 3009.507 Solicitation provision and contract clause. [Reserved]

#### 3009.507-1 Solicitation provision.

The contracting officer shall insert a provision substantially the same as (HSAR) 3052.209-72, Organizational Con-

flict of Interest, in solicitations and contracts where a potential organizational conflict of interest exists and mitigation may be possible. The contracting officer shall ensure the conditions enumerated in (FAR) 48 CFR subpart 9.5 warrant inclusion. The contracting officer shall include the information required by (FAR) 48 CFR 9.507-1 and (HSAR) 3052.209-72(a).

[71 FR 25769, May 2, 2006]

#### 3009.507-2 Contract clause.

The contracting officer shall insert a clause substantially the same as the clause at (HSAR) 48 CFR 3052.209-73, Limitation of Future Contracting, in solicitations and contracts when a potential organizational conflict of interest exists and mitigation is not feasible.

[71 FR 25769, May 2, 2006]

### 3009.570 Limitations on contractors acting as lead system integrators.

#### 3009.570-1 Definitions.

“Direct Financial Interest,” as used in this section, is defined in the clause at HSAR 48 CFR 3052.209-75, Prohibited Financial Interests for Lead System Integrators.

“Lead system integrator,” as used in this section, is defined in the clause at (HSAR) 48 CFR 3052.209-75, Prohibited Financial Interests for Lead System Integrators.

[75 FR 41099, July 15, 2010]

#### 3009.570-2 Policy.

(a) Except as provided in paragraph (b) of this subsection, under 6 U.S.C. 396, no entity performing lead system integrator functions in the acquisition of a major system (See (HSAR) 48 CFR 3002.101) by DHS may have any direct financial interest in the development or construction of any individual system or element of any system of systems under the program in which the entity is performing lead system integrator functions.

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

(1) The Secretary of Homeland Security certifies to the Committees on Appropriations of the Senate and the