

Department of Education

3412.203

avoided, neutralized, or mitigated before award, the prospective contractor is not eligible for that award. If a potential or actual conflict of interest is identified after award and the effects cannot be avoided, neutralized, or mitigated, ED will terminate the contract unless the HCA deems continued performance to be in the best interest of the Federal government.

(b) The HCA is designated as the official to conduct reviews and make final decisions under FAR 9.506(b) and (c).

3409.507 Solicitation provision and contract clause.

3409.507-1 Solicitation provision.

The contracting officer must insert the provision in 3452.209-70 (Conflict of interest certification) in all solicitations for services above the simplified acquisition threshold.

3409.507-2 Contract clause.

The contracting officer must insert the clause at 3452.209-71 (Conflict of interest) in all contracts for services above the simplified acquisition threshold. The clause is applicable to each order for services over the simplified acquisition threshold under task order contracts.

3409.570 Certification at or below the simplified acquisition threshold.

By accepting any contract, including orders against any Schedule or Government-wide Acquisition Contract (GWAC), with the Department at or below the simplified acquisition threshold:

(a) The contractor warrants that, to the best of the contractor's knowledge and belief, there are no relevant facts or circumstances that would give rise to an organizational conflict of interest, as defined in FAR subpart 2.1, or that the contractor has disclosed all such relevant information.

(b) The contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the contractor will make an immediate full disclosure in writing to the contracting officer. This disclosure must include a description of actions that the contractor has taken or proposes to take, after consultation with

the contracting officer, to avoid, mitigate, or neutralize the actual or potential conflict.

(c) The contractor agrees that:

(1) The Government may terminate this contract for convenience, in whole or in part, if such termination is necessary to avoid an organizational conflict of interest.

(2) The Government may terminate this contract for default or pursue other remedies permitted by law or this contract if the contractor was aware or should have been aware of a potential organizational conflict of interest prior to award, or discovers or should have discovered an actual or potential conflict after award, and does not disclose, or misrepresents, relevant information to the contracting officer regarding the conflict.

(d) The contractor further agrees to insert provisions that substantially conform to the language of this section, including this paragraph (d), in any subcontract or consultant agreement hereunder.

PART 3412—ACQUISITION OF COMMERCIAL ITEMS

Subpart 3412.2—Special Requirements for the Acquisition of Commercial Items

Sec.

3412.203 Procedures for solicitation, evaluation, and award.

Subpart 3412.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

3412.302 Tailoring of provisions and clauses for the acquisition of commercial items.

AUTHORITY: 5 U.S.C. 301 and 20 U.S.C. 1018a.

SOURCE: 76 FR 12796, Mar. 8, 2011, unless otherwise noted.

Subpart 3412.2—Special Requirements for the Acquisition of Commercial Items

3412.203 Procedures for solicitation, evaluation, and award.

As specified in 3413.003, simplified acquisition procedures for commercial items may be used without regard to