

§ 203.18

32 CFR Ch. I (7–1–14 Edition)

§ 203.18 Conflict of interest and disclosure requirements.

The Department of Defense shall require each prospective assistance provider on any contract to provide, with its bid or proposal:

(a) Information on its financial and business relationship with the installation, RAB/TRC members, or any/all potentially responsible parties (PRPs) at the site, and with their parent companies, subsidiaries, affiliates, subcontractors, contractors, and current clients or attorneys and agents. This disclosure requirement encompasses past and anticipated financial and business relationships, including services related to any proposed or pending litigation, with such parties.

(b) Certification that, to the best of its knowledge and belief, it has disclosed such information or no such information exists.

(c) A statement that it shall disclose immediately any such information discovered after submission of its bid or after award. The contracting officer shall evaluate such information and shall exclude any prospective contractor if the contracting officer determines the prospective contractor has a potential conflict of interest that is both significant and cannot be avoided or otherwise resolved. If, after award, the contracting officer determines that a conflict of interest exists that is both significant and cannot be avoided or resolved, the contract will be terminated for cause.

(d) Contractors and subcontractors may not be technical assistance providers to community members of RABs/TRCs at an installation where

they are performing cleanup activities for the Federal or State government or any other entity.

§ 203.19 Appeals process.

DoD Components will establish an appeals process to settle potential disputes between the Department of Defense and the public regarding certain decisions arising out of the TAPP process. The Department of Defense recognizes that the RAB/TRC may disagree with the findings of the installation commander that a proposed TAPP project is ineligible, either because of the availability of alternate sources of assistance or because the project does not meet the eligibility criteria established in this part. It is in the best interests of the Department of Defense and the community members of RABs and TRCs to anticipate and avoid disputes and to work cooperatively to resolve potential differences of opinion. However, in certain circumstances, the RAB/TRC community members may feel that their needs were not adequately served by the decisions of the Department of Defense. In this instance, the hierarchical structure and chain-of-command within each DoD Component will serve as the avenue for appeal. Appeals will be considered within the chain-of-command, and, in general, will be resolved at the lowest level possible. The highest level of appeal will be at the DoD Component Deputy Assistant Secretary level with authority over the DERP and BRAC environmental programs. Inherently governmental functions, such as the procurement process governed by the FAR, are not subject to appeal.