

PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT**250.102–1 [Amended]**

■ 27. Amend section 250.102–1 in paragraph (b), by removing “\$75,000” and adding “\$90,000” in its place.

250.102–1–70 [Amended]

■ 28. Amend section 250.102–1–70 in paragraph (b)(1), by removing “\$75,000” and adding “\$90,000” in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 29. Amend section 252.204–7007—
■ a. By revising the provision date; and
■ b. In paragraph (d)(1)(v), by removing “\$150,000” and adding “\$200,000” in its place.

The revision reads as follows:

252.204–7007 Alternate A, Annual Representations and Certifications.

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Alternate A, Annual Representations and Certifications (Oct 2025)

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■ 30. Amend section 252.215–7016 by—
■ a. Revising the provision date; and
■ b. Revising and republishing paragraph (b).

The revisions and republication read as follows:

252.215–7016 Notification to Offerors—Postaward Debriefings.

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Notification to Offerors—Postaward Debriefings (Oct 2025)

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(b) *Postaward debriefing.* (1) Upon timely request, the Government will provide a written or oral postaward debriefing to successful or unsuccessful offerors for contract awards valued at \$15 million or more, while protecting the confidential and proprietary information of other offerors. The request is considered timely if received within 3 days of notification of contract award.

(2) When required, the minimum postaward debriefing information will include the following:

(i) For contracts in excess of \$15 million and not in excess of \$150 million with a small business or nontraditional defense contractor, an option for the small business or nontraditional defense contractor to request disclosure of the agency’s written source selection decision document, redacted to protect the confidential and proprietary information of other offerors for the contract award.

(ii) For contracts in excess of \$150 million, disclosure of the agency’s written source selection decision document, redacted to

protect the confidential and proprietary information of other offerors for the contract award.

(3) If a required postaward debriefing is provided—

(i) The debriefed Offeror may submit additional written questions related to the debriefing not later than 2 business days after the date of the debriefing;

(ii) The agency will respond in writing to timely submitted additional questions within 5 business days after receipt by the contracting officer; and

(iii) The postaward debriefing will not be considered to be concluded until the later of—

(A) The date that the postaward debriefing is delivered, orally or in writing; or

(B) If additional written questions related to the debriefing are timely received, the date the agency delivers its written response.

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■ 31. Amend section 252.216–7010—

■ a. By revising the clause date; and

■ b. In paragraph (a)(1), by removing “\$10 million” and adding “\$15 million” in its place.

The revision reads as follows:

252.216–7010 Postaward Debriefings for Task Orders and Delivery Orders.

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Postaward Debriefings for Task Orders and Delivery Orders (Oct 2025)

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■ 32. Amend section 252.225–7003 by—

■ a. Revising the provision date; and

■ b. Revising and republishing paragraph (b).

The revisions and republication read as follows:

252.225–7003 Report of Intended Performance Outside the United States and Canada—Submission with Offer.

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Report of Intended Performance Outside the United States and Canada—Submission With Offer (Oct 2025)

* * * * *

(b) The Offeror shall submit, with its offer, a report of intended performance outside the United States and Canada if—

(1) The offer exceeds \$20 million in value; and

(2) The Offeror is aware that the Offeror or a first-tier subcontractor intends to perform any part of the contract outside the United States and Canada that—

(i) Exceeds \$900,000 in value; and

(ii) Could be performed inside the United States or Canada.

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[FR Doc. 2025–16205 Filed 8–22–25; 8:45 am]

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Parts 209, 212, 237, and 252**

[Docket DARS–2024–0029]

RIN 0750–AM04

Defense Federal Acquisition Regulation Supplement: Preventing Conflicts of Interest for Certain Consulting Services (DFARS Case 2024–D007)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2024, which prohibits contracting officers from awarding contracts assigned certain North American Industry Classification System codes to offerors holding contracts that involve consulting services with certain covered foreign entities.

DATES: Effective October 24, 2025.

FOR FURTHER INFORMATION CONTACT: Jon Snyder, telephone 703–945–5341.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD published a proposed rule in the **Federal Register** at 89 FR 79013 on September 26, 2024, to implement section 812 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2024 (Pub. L. 118–31). Section 812 prohibits the award of contracts assigned a North American Industry Classification System (NAICS) code beginning with 5416 (*e.g.*, management, scientific, and technical consulting services) to offerors who hold contracts that involve consulting services with certain covered foreign entities. Four respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments is provided, as follows:

A. Summary of Significant Changes From the Proposed Rule

The following significant change from the proposed rule is made in the final

rule. The final rule text in paragraph (c)(1)(i) and (ii) of the provision at DFARS 252.209–7012 is amended to clarify that the certification is for contracts or subcontracts that involve consulting services, which is consistent with the prohibition.

B. Analysis of Public Comments

1. Support for the Rule

Comment: A respondent expressed support for the rule.

Response: DoD acknowledges the respondent's support for the rule.

2. Clarifications

Comment: A respondent indicated that it is unclear if the proposed rule definition of “covered foreign entity” applies to a foreign entity's subsidiaries or affiliates. The respondent recommended that the proposed rule specify that “covered foreign entity” only applies to those listed entities, subsidiaries, and/or affiliates of the covered foreign entity. Another respondent recommended DoD establish a single online repository for all covered foreign entities.

Response: The text at DFARS 209.572(c) and in paragraph (a) of the provision at DFARS 252.209.7012, Prohibition Relating to Conflicts of Interest in Consulting Services-Certification, addresses the prohibition regarding subsidiaries and affiliates of covered foreign entities; therefore, it is not necessary to amend the definition. Although DoD acknowledges the respondent's concern, it is not possible to establish a single online repository of covered foreign entities, as the lists of such entities are compiled and maintained by different departments and agencies and are subject to change.

Comment: A respondent indicated that the definition of “consulting services” is unclear due to the use of the words “the term” in the definition. Specifically, it is ambiguous whether “the term” referenced in the definition is the broader “consulting services” or the more specific “advisory and assistance services”. The respondent also indicated that the definition of “consulting services” is too broad and should include an exception for nonprofit organizations whose primary purpose is to conduct research, indicating that throughout the Federal Acquisition Regulation (FAR) nonprofit research organizations qualify for exceptions and particularized requirements.

Response: The definition of “consulting services” at DFARS 209.572(b) and in paragraph (a) of the provision at DFARS 252.209.7012 is

revised to replace “the term” with “consulting services”. This rule implements a statutory requirement, which does not provide for an exception for nonprofit research organizations. Therefore, DoD cannot provide such an exception.

Comment: A couple of respondents recommended changes to the provision at DFARS 252.209.70XX. A respondent indicates the proposed rule does not provide sufficient information regarding what is to be included in a conflict-of-interest mitigation plan. Another respondent recommends that the text be amended to allow an offeror's administrative contracting officer (ACO) to review and approve the conflict-of-interest mitigation plan.

Response: The final rule text in paragraph (d)(1) of the provision at DFARS 252.209–7012 already specifies that the conflict-of-interest mitigation plan shall be auditable by a contract oversight entity and provides a list of what the offeror's conflict-of-interest mitigation plan must include. As such, the contracting officer will review the plan and may conduct discussions or negotiate the contents of the plan with the offeror prior to final acceptance. In accordance with FAR 42.2, contracting officers may assign post-award contract administration functions to an ACO. The review and approval of a conflict-of-interest mitigation plan is a pre-award function; therefore, it cannot be delegated to the ACO.

Comment: A respondent recommended adding the word “both” before the items listed at DFARS 209.57X(c) to make it clear that the prohibition only applies to an offeror that has a potential conflict of interest and does not have a conflict-of-interest mitigation plan.

Response: DoD concurs with the recommendation. The final rule text at DFARS 209.572(c) and in paragraph (b) of the provision at DFARS 252.209.7012 is revised to add the word “both”.

Comment: A couple of respondents recommended the proposed rule be amended to reflect that the certification is based on the best knowledge of the offeror.

Response: The wording of the certification is based on section 812, which requires an offeror to certify that neither it nor its subsidiaries or affiliates, holds a contract that involves consulting services with one or more covered foreign entities. Therefore, DoD cannot adopt this recommendation.

Comment: A couple of respondents recommended changing the provision at DFARS 252.209–70XX to address the potential for previously undisclosed conflicts of interest that may arise

during contract performance. Another respondent recommends the text at DFARS 209.57X(c) and in paragraphs (b) and (c) of the provision at DFARS 252.209–70XX clarify whether or not the prohibition and certification requirements apply to an offeror that is a subcontractor on another contract involving consulting services with a covered foreign entity.

Response: Section 812 does not require post-award monitoring of the “covered foreign entity” lists by a contractor that was not required to submit a conflict-of-interest mitigation plan. However, paragraph (d) of the provision at DFARS 252.209–7012 does require that a conflict-of-interest mitigation plan include procedures for addressing unmitigated conflicts of interest.

Section 812 does not specify that the prohibition and certification requirements apply to an offeror that is a subcontractor on a contract with a covered foreign entity. However, the purpose of the statute is to prevent DoD contract awardees, and their subsidiaries or affiliates, from holding a contract involving consulting services with one or more covered foreign entities without a conflict-of-interest mitigation plan. As such, to meet the intent of the statute, the final rule text at DFARS 209.572(c)(1) and (d)(1), and paragraphs (b), (c)(1)(i) and (ii) of the provision at DFARS 252.209–7012 is amended to include subcontracts.

Comment: A respondent recommended the text in paragraph (d)(1)(i) of the provision at DFARS 252.209–70XX be amended to clarify that the offeror's restriction to identify the name of a covered foreign entity shall not obligate the contracting officer to disapprove the offeror's conflict-of-interest mitigation plan.

Response: Paragraph (d)(1)(i) of the provision at DFARS 252.209–7012 requires an offeror to identify an entity as “a covered foreign entity” if the offeror is unable to identify one or more covered foreign entities due to confidentiality obligations. As such, an offeror's compliance with the requirements of the provision would not be a basis for the contracting officer to disapprove an offeror's conflict-of-interest mitigation plan.

Comment: A respondent recommended including definitions of avoiding, neutralizing, and mitigating.

Response: In accordance with FAR 1.108(a), undefined words retain their common dictionary meaning. Therefore, it is not necessary to define these terms in this rule.

C. Other Changes

The final rule text in paragraph (d) of the provision at DFARS 252.209–7012 is amended to clarify that the approved conflict-of-interest mitigation plan will be incorporated into the contract. The definition of “covered foreign entity” in paragraph (a) of the provision is amended to correct capitalization.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), and for Commercial Services

The provision at DFARS 252.209.7012, Prohibition Relating to Conflicts of Interest in Consulting Services—Certification, is prescribed at DFARS 209.572(e) for use in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial services, assigned a NAICS code beginning with 5416. The provision will not be included in solicitations for the acquisition of commercial products including COTS items. Consistent with the analysis that DoD provided in the proposed rule with regard to the application of the requirements of section 812 of the NDAA for FY 2024, DoD has made the determination to apply the statute, as implemented in the provision at DFARS 252.209.7012 to contracts at or below the SAT and to the acquisition of commercial services, as defined at FAR 2.101. The rule will not apply to commercial products including COTS items.

IV. Expected Impact of the Rule

This rule will prohibit contracting officers from awarding contracts, assigned a NAICS code beginning with 5416, to offerors who hold contracts that involve consulting services with covered foreign entities, unless the offeror has an approved conflict-of-interest mitigation plan. NAICS codes beginning with 5416 are for management, scientific, and technical consulting services.

Offerors responding to solicitations assigned those NAICS codes will be required to certify whether or not they hold contracts that involve consulting services with one or more covered foreign entities and whether they maintain a conflict-of-interest mitigation plan. If an offeror certifies that they do hold such a contract, the offeror may consult with the contracting officer and submit a conflict-of-interest mitigation plan that is auditable by a contract oversight entity in addition to other

requirements. If the offeror’s plan is approved, the contracting officer will incorporate the plan into the resulting contract. If the offeror does not submit a conflict-of-interest mitigation plan, the contracting officer may determine the award is in the best interests of the United States with appropriate approval. In addition, the agency will be required to submit to Congress any use of such waiver authority.

DoD expects this rule to prevent adversaries from accessing sensitive information that may cause harm to the United States.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, as amended.

VI. Executive Order 14192

This final rule is not subject to E.O. 14192, because the final rule is not a significant regulatory action under E.O. 12866.

VII. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VIII. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* and is summarized as follows:

This rule is necessary to implement section 812 of the National Defense

Authorization Act (NDAA) for Fiscal Year (FY) 2024 (Pub. L. 118–31). The objective of the rule is to implement section 812, which prohibits contracting officers from awarding contracts, assigned a North American Industry Classification System (NAICS) code beginning with 5416, to an offeror who holds a contract that involves consulting services with one or more covered foreign entities. NAICS codes beginning with 5416 are for management, scientific, and technical consulting services. Section 812 allows an offeror to submit a conflict-of-interest mitigation plan and allows the prohibition to be waived under certain circumstances. This rule specifies that an approved conflict-of-interest mitigation plan will be incorporated into the resultant contract.

There were no significant issues raised by the public.

According to data obtained from the Procurement Integrated Enterprise Environment for the last three fiscal years, DoD awarded contracts with NAICS codes starting with 5416 to unique small entities as follows: 829 in FY 2022, 862 in FY 2023, and 867 in FY 2024, for an average of 853 per fiscal year. However, DoD cannot determine how many of those contracts awarded to small entities involve potential conflicts of interest.

This rule imposes new reporting, recordkeeping, or other compliance requirements for small entities. The new solicitation provision at DFARS 252.209–7012, Notice of Prohibition Relating to Conflicts of Interest in Consulting Services—Certification, requires offerors to certify whether they or their subsidiaries or affiliates hold a contract for consulting services with one or more covered entities and whether they maintain a conflict-of-interest mitigation plan that meets certain criteria listed in the solicitation provision.

There are no known alternatives that would accomplish the stated objectives of the applicable statute.

IX. Paperwork Reduction Act

This final rule contains information collection requirements that have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). This information collection requirement has been assigned OMB Control Number 0750–0009, Preventing Conflicts of Interest for Certain Consulting Services.

List of Subjects in 48 CFR Parts 209, 212, 237, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, the Defense Acquisition Regulations System amends 48 CFR parts 209, 212, 237, and 252 as follows:

■ 1. The authority citation for parts 209, 212, 237, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 209—CONTRACTOR QUALIFICATIONS

■ 2. Add section 209.503–70 to subpart 209.5 to read as follows:

209.503–70 Waiver.

Notwithstanding FAR 9.503, for consulting services, as defined at 209.572(b), the waiver approval authority is the Secretary of Defense and the following officials, without power of delegation below an official appointed by the President and confirmed by the Senate:

(a) The Under Secretary of Defense (Acquisition and Sustainment).

(b) The assistant secretaries of the military departments. (See PGI 209.503–70.)

■ 3. Add section 209.572 to subpart 209.5 to read as follows:

209.572 Conflicts of interest in certain consulting services.

(a) *Scope.* (1) This section implements section 812 of the National Defense Authorization Act for Fiscal Year 2024 (Pub. L. 118–31).

(2) To the extent that this section is inconsistent with FAR subpart 9.5, this section takes precedence.

(b) *Definitions.* As used in this section—

Consulting services means advisory and assistance services, except that “consulting services” does not include the provision of products or services related to—

(i) Compliance with legal, audit, accounting, tax, reporting, or other requirements of the laws and standards of countries; or

(ii) Participation in a judicial, legal, or equitable dispute resolution proceeding.

Contract oversight entity means any of the following:

(i) The contracting officer.

(ii) The contracting officer’s representative.

(iii) The Defense Contract Management Agency.

(iv) The Defense Contract Audit Agency.

(v) The DoD Office of Inspector General or any subcomponent of that office.

(vi) The Government Accountability Office.

Covered contract means a DoD contract involving consulting services.

Covered foreign entity means any of the following:

(i) The government of the People’s Republic of China, the Chinese Communist Party, the People’s Liberation Army, the Ministry of State Security, or other security service or intelligence agency of the People’s Republic of China.

(ii) The government of the Russian Federation or any entity sanctioned by the Secretary of the Treasury under Executive Order 13662, Blocking Property of Additional Persons Contributing to the Situation in Ukraine.

(iii) The government of any country if the Secretary of State determines that such government has repeatedly provided support for acts of international terrorism pursuant to any of the following:

(A) Section 1754(c)(1)(A) of the Export Control Reform Act of 2018 (50 U.S.C. 4318(c)(1)(A)).

(B) Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(C) Section 40 of the Arms Export Control Act (22 U.S.C. 2780).

(D) Any other provision of law.

(iv) Any entity included on any of the following lists maintained by the Department of Commerce (see the Export Administration Regulations at 15 CFR subchapter C):

(A) The Entity List in supplement no. 4 to 15 CFR part 744.

(B) The Denied Persons List as described in 15 CFR 764.3(a)(2).

(C) The Unverified List in supplement no. 6 to 15 CFR part 744.

(D) The Military End User List in supplement no. 7 to 15 CFR part 744.

(v) Any entity identified by the Secretary of Defense pursuant to section 1237(b) of the National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261; 50 U.S.C. 1701 note).

(vi) Any entity on the Non-Specially Designated Nationals Chinese Military-Industrial Complex Companies List maintained by the Office of Foreign Assets Control of the Department of the Treasury under Executive Order 14032, Addressing the Threat From Securities Investments That Finance Certain Companies of the People’s Republic of China.

(c) *Prohibition.* The contracting officer shall not award a contract assigned a North American Industry Classification System (NAICS) code beginning with 5416 that involves consulting services to an offeror that both—

(1) Cannot certify that neither the offeror nor its subsidiaries or affiliates hold a contract or subcontract involving consulting services with one or more covered foreign entities; and

(2) Does not have a conflict-of-interest mitigation plan that is auditable by a contract oversight entity and approved by the contracting officer.

(d) *Waiver.* (1) If the prospective contractor(s) certified, in response to paragraph (c) of the provision at 252.209–7012, Prohibition Relating to Conflicts of Interest in Consulting Services—Certification, that it or its subsidiaries or affiliates hold a contract or subcontract for consulting services with one or more covered foreign entities and the offeror has not submitted an acceptable conflict-of-interest mitigation plan, the contracting officer shall—

(i) Notify the offeror of the potential withholding of award due to the unmitigated conflict of interest; and

(ii) Specify that the offeror has 10 days to respond to the notification.

(2) If the contracting officer determines that it is in the best interests of the United States to award the contract, notwithstanding the conflict of interest, the contracting officer shall request a waiver in accordance with 209.503–70.

(3) The prohibition may be waived on a case-by-case basis if an official listed at 209.503–70 determines that a waiver is necessary for national security purposes.

(4) The contracting officer shall include the waiver request and the waiver in the contract file.

(5) Not later than 30 days after approval of the waiver, the agency shall provide written notification to the House and Senate Armed Services Committees of the use of such waiver authority. The notification shall include—

(i) The specific justification for providing the waiver;

(ii) The number of offerors that did not require a waiver;

(iii) The number of offerors that were granted a waiver;

(iv) Identification of the covered foreign entity that is the subject of the waiver; and

(v) The total dollar value of the covered contract.

(e) *Solicitation provision.* Use the provision at 252.209–7012, Prohibition Relating to Conflicts of Interest in Consulting Services—Certification, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial services, assigned a NAICS code beginning with 5416. Do not include the provision in

solicitations for the acquisition of commercial products.

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 4. Amend section 212.301 by revising paragraph (f)(iv) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * * *

(f) * * *

(iv) *Part 209—Contractor Qualifications.*

(A) Use the provision at 252.209–7011, Representation for Restriction on the Use of Certain Institutions of Higher Education, as prescribed in 209.170–4, to comply with section 1062 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283).

(B) Use the provision at 252.209–7012, Prohibition Relating to Conflicts of Interest in Consulting Services—Certification, as prescribed in 209.572(e), to comply with section 812 of the National Defense Authorization Act for Fiscal Year 2024 (Pub. L. 118–31).

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PART 237—SERVICE CONTRACTING

■ 5. Add section 237.271 to subpart 237.2 to read as follows:

237.271 Consulting services.

See 209.572 for requirements related to conflicts of interest in consulting services.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Add section 252.209–7012 to subpart 252.2 to read as follows:

252.209–7012 Prohibition Relating to Conflicts of Interest in Consulting Services—Certification.

As prescribed in 209.572(e), use the following provision:

Prohibition Relating to Conflicts of Interest in Consulting Services—Certification (Oct 2025)

(a) *Definitions.* As used in this provision—
Consulting services means advisory and assistance services, except that “consulting services” does not include the provision of products or services related to—

(1) Compliance with legal, audit, accounting, tax, reporting, or other

requirements of the laws and standards of countries; or

(2) Participation in a judicial, legal, or equitable dispute resolution proceeding.

Contract oversight entity means any of the following:

(1) The Contracting Officer.

(2) The Contracting Officer's Representative.

(3) The Defense Contract Management Agency.

(4) The Defense Contract Audit Agency.

(5) The DoD Office of Inspector General or any subcomponent of that office.

(6) The Government Accountability Office.

Covered contract means a DoD contract involving consulting services.

Covered foreign entity means any of the following:

(1) The government of the People's Republic of China, the Chinese Communist Party, the People's Liberation Army, the Ministry of State Security, or other security service or intelligence agency of the People's Republic of China.

(2) The government of the Russian Federation or any entity sanctioned by the Secretary of the Treasury under Executive Order 13662, Blocking Property of Additional Persons Contributing to the Situation in Ukraine.

(3) The government of any country, if the Secretary of State determines that such government has repeatedly provided support for acts of international terrorism, pursuant to any of the following:

(i) Section 1754(c)(1)(A) of the Export Control Reform Act of 2018 (50 U.S.C. 4318(c)(1)(A)).

(ii) Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(iii) Section 40 of the Arms Export Control Act (22 U.S.C. 2780).

(iv) Any other provision of law.

(4) Any entity included on any of the following lists maintained by the Department of Commerce (see the Export Administration Regulations at 15 CFR subchapter C):

(i) The Entity List in supplement no. 4 to 15 CFR part 744.

(ii) The Denied Persons List as described in 15 CFR 764.3(a)(2).

(iii) The Unverified List in supplement no. 6 to 15 CFR part 744.

(iv) The Military End User List in supplement no. 7 to 15 CFR part 744.

(5) Any entity identified by the Secretary of Defense pursuant to section 1237(b) of the National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261; 50 U.S.C. 1701 note).

(6) Any entity on the Non-Specially Designated Nationals Chinese Military-Industrial Complex Companies List maintained by the Office of Foreign Assets Control of the Department of the Treasury under Executive Order 14032, Addressing the Threat From Securities Investments That Finance Certain Companies of the People's Republic of China.

(b) *Prohibition.* DoD cannot award to the Offeror a contract assigned a North American

Industry Classification System code beginning with 5416 if the Offeror—

(1) Cannot certify that neither the Offeror nor any of its subsidiaries or affiliates hold a contract or subcontract that involves consulting services with one or more covered foreign entities; and

(2) Does not maintain a conflict-of-interest mitigation plan as described in paragraph (d) of this provision.

(c) *Certification.* The Offeror certifies that—

(1)(i) It does [] does not [] hold a contract or subcontract that involves consulting services with one or more covered foreign entities; and

(ii) Its subsidiaries or affiliates do [] do not [] hold a contract or subcontract that involves consulting services with one or more covered foreign entities; and

(2) It does [] does not [] maintain a conflict-of-interest mitigation plan described in paragraph (d) of this provision.

(d) *Conflict-of-interest mitigation plan.* If the Offeror answered in the affirmative in paragraphs (c)(1) and (2) of this provision, then the Offeror shall submit its conflict-of-interest mitigation plan to the Contracting Officer for approval. The Offeror may contact the Contracting Officer for guidance on submitting the Offeror's conflict-of-interest mitigation plan.

(1) The Offeror's conflict-of-interest mitigation plan shall be auditable by a contract oversight entity and shall include—

(i) An identification, unless otherwise prohibited by law or regulation, of any covered contracts of the Offeror or its subsidiaries or affiliates with a covered foreign entity. If the Offeror is unable to identify one or more covered foreign entities due to confidentiality obligations, the Offeror shall identify such entities as a covered foreign entity;

(ii) A written analysis, including a course of action for avoiding, neutralizing, or mitigating the actual or potential conflict of interest of such a covered contract;

(iii) A description of the procedures by which the Offeror or its subsidiaries or affiliates will ensure that individuals who will perform the scope of a covered contract will not, for the duration of such contract, also provide any consulting services to any covered foreign entity; and

(iv) A description of the procedures by which the Offeror or its subsidiaries or affiliates will submit to the contract oversight entities a notice of an unmitigated conflict of interest with respect to a covered contract within 15 days of determining that such a conflict has arisen.

(2) The Contracting Officer will incorporate the Offeror's approved conflict-of-interest mitigation plan into any contract awarded to the Offeror resulting from this solicitation.

(End of provision)

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