

# 5352.209-9000 Organizational Conflict of Interest

As prescribed in DAFFARS 5309.507-2(a), insert the following clause, substantially as written, in Section I:

## ORGANIZATIONAL CONFLICT OF INTEREST (JUL 2023)

(a) The following restrictions and definitions apply to prevent conflicting roles which may bias the Contractor's judgment or objectivity, or to preclude the Contractor from obtaining an unfair competitive advantage in concurrent or future acquisitions.

(1) Descriptions or definitions:

"Contractor" means the business entity receiving the award of this contract, its parents, affiliates, divisions and subsidiaries.

"Development" means all efforts towards solution of broadly-defined problems. This may encompass research, evaluating technical feasibility, proof of design and test, or engineering of programs not yet approved for acquisition or operation.

"Proprietary Information" means all information designated as proprietary in accordance with law and regulation, and held in confidence or disclosed under restriction to prevent uncontrolled distribution. Examples include limited or restricted data, trade secrets, sensitive financial information, and computer software; and may appear in cost and pricing data or involve classified information.

"System" means the system that is the subject of this contract.

"System Life" means all phases of the system's development, production, or support.

"Systems Engineering" means preparing specifications, identifying and resolving interface problems, developing test requirements, evaluating test data, and supervising design.

"Technical Direction" means developing work statements, determining parameters, directing other Contractors' operations, or resolving technical controversies.

(2) Restrictions: The Contractor shall perform systems engineering and/or technical direction, but will not have overall contractual responsibility for the system's development, integration, assembly and checkout, or production. The parties recognize that the Contractor shall occupy a highly influential and responsible position in determining the system's basic concepts and supervising their execution by other Contractors. The Contractor's judgment and recommendations must be objective, impartial, and independent. To avoid the prospect of the Contractor's judgment or recommendations being influenced by its own products or capabilities, it is agreed that the Contractor is precluded for the life of the system from award of a DoD contract to supply the system or any of its major components, and from acting as a subcontractor or consultant to a DoD supplier for the system or any of its major components.

(End of clause)

**ALTERNATE I (JUL 2023).** As prescribed in [DAFFARS 5309.507-2\(a\)\(2\)](#), either substitute paragraph (a)(2) of the basic clause with one or both of the following paragraphs, or use one or both in addition to the basic paragraph (a)(2). Use these paragraphs substantially as written.

(a)(2)(i) The Contractor shall prepare and submit complete specifications for non-developmental items to be used in a competitive acquisition. The Contractor shall not furnish these items to the DoD, either as a prime or subcontractor, for the duration of the initial production contract plus (insert a specific period of time or an expiration date).

(a)(2)(ii) The Contractor shall either prepare or assist in preparing a work statement for use in competitively acquiring the (identify the system or services), or provide material leading directly, predictably, and without delay to such a work statement. The Contractor may not supply (identify the services, the system, or the major components of the system) for a period (state the duration of the constraint, however, the duration of the initial production contract shall be the minimum), as either the prime or subcontractor unless it becomes the sole source, has participated in the design or development work, or more than one Contractor has participated in preparing the work statement.

**ALTERNATE II (JUL 2023).** As prescribed in [DAFFARS 5309.507-2\(a\)\(3\)](#), either substitute paragraph (a)(2) of the basic clause with the following paragraph, or add the following in addition to the basic restriction. Renumber the paragraphs as needed if more than one restriction applies. Use this paragraph, substantially as written.

(a)(2) The Contractor shall participate in the technical evaluation of other Contractors' proposals or products. To ensure objectivity, the Contractor is precluded from award of any supply or service contract or subcontract for the system or its major components. This restriction shall be effective for (insert a definite period of time). This does not apply to other technical evaluations concerning the system.

**ALTERNATE III (JUL 2023).** As prescribed in [DAFFARS 5309.507-2\(a\)\(4\)](#), add the following paragraph (b) to the basic clause substantially as written:

(b) The Contractor may gain access to proprietary information of other companies during contract performance. The Contractor agrees to enter into company-to-company agreements to: (1) protect another company's information from unauthorized use or disclosure for as long as it is considered proprietary by the other company; and, (2) to refrain from using the information for any purpose other than that for which it was furnished. For information purposes, the Contractor shall furnish copies of these agreements to the contracting officer. These agreements are not intended to protect information which is available to the Government or to the Contractor from other sources and furnished voluntarily without restriction.

**ALTERNATE IV (JUL 2023).** As prescribed in [DAFFARS 5309.507-2\(a\)\(5\)](#), add the following paragraph (b) to the basic clause. If Alternate III is also used, renumber this to paragraph (c).

(b) The Contractor agrees to accept and to complete all issued task orders, and not to contract with Government prime Contractors or first-tier subcontractors in such a way as to create an organizational conflict of interest.

**ALTERNATE V (JUL 2023).** As prescribed in [DAFFARS 5309.507-2\(a\)\(6\)](#), add the following paragraph (b) to the basic clause substantially as written. If more than one Alternate is used, renumber this paragraph accordingly.

(b) The Contractor agrees to accept and to complete issued delivery orders, provided that no new organizational conflicts of interest are created by the acceptance of that order. The contracting officer shall identify the organizational conflict of interest in each order. The Contractor shall not contract with Government prime Contractors or first-tier subcontractors in such a way as to create an organizational conflict of interest.

**ALTERNATE VI (JUL 2023).** As prescribed in DAFFARS 5309.507-2(a)(7), add the following paragraph (b) to the basic clause substantially as written. If either Alternate III or IV or both are used, renumber this paragraph accordingly.

(b) The above restrictions shall be included in all subcontracts, teaming arrangements, and other agreements calling for performance of work which is subject to the organizational conflict of interest restrictions identified in this clause, unless excused in writing by the contracting officer.

**Parent topic:** Subpart 5352.2 — TEXT OF PROVISIONS AND CLAUSES