

Department of Defense

209.470-2

provided to the contractor in advance of the decision.

(d) *Debarring official's decision.* The absence of a referral in accordance with paragraph (a)(i) of this subsection, or the absence of any information specified in the report format in paragraph (a)(ii) of this subsection, will not preclude the debarring and suspending official from making a decision.

[64 FR 62985, Nov. 18, 1999; 65 FR 4864, Feb. 1, 2000]

209.407 Suspension.

209.407-3 Procedures.

(a) *Investigation and referral.*

(i) Refer all matters appropriate for consideration by an agency debarring and suspending official as soon as practicable to the appropriate debarring and suspending official identified in 209.403. Any person may refer a matter to the debarring and suspending official.

(ii) Use the format at 209.406-3(a)(ii) when referring a matter to the agency debarring and suspending official for consideration. To the extent practicable, provide all information specified in the format.

(iii) If a referral lacks sufficient evidence of a cause for suspension, the debarring and suspending official may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(b) *Decisionmaking process.*

(i) The agency debarring and suspending official may initiate the suspension process by issuing a notice of suspension in accordance with FAR 9.407-3(c) when the debarring and suspending official finds that the administrative record contains sufficient evidence of one or more of the causes for suspension stated in FAR 9.407-2.

(A) The absence of a referral in accordance with paragraph (a)(i) of this subsection, or the absence of any information specified in the report format at 209.406-3(a)(ii), will not preclude the debarring and suspending official from making such a finding.

(B) The signature of the debarring and suspending official on the notice of suspension is sufficient evidence that the debarring and suspending official has made such a finding.

(ii) In deciding whether to terminate a suspension following a submission of matters in opposition, the agency debarring and suspending official must use the decisionmaking process stated in FAR 9.407-3(b), DFARS Appendix H, and any agency-specific procedures that were provided to the contractor in advance of the decision.

(d) *Suspending official's decision.* The absence of a referral in accordance with paragraph (a)(i) of this subsection, or the absence of any information specified in the report format at 209.406-3(a)(ii), will not preclude the debarring and suspending official from making a decision.

[64 FR 62985, Nov. 18, 1999; 65 FR 4864, Feb. 1, 2000]

209.409 Solicitation provision and contract clause.

Use the clause at 252.209-7004, Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country, in solicitations and contracts with a value of \$100,000 or more.

[63 FR 14837, Mar. 27, 1998]

209.470 Reserve Officer Training Corps and military recruiting on campus.

209.470-1 Definition.

Institution of higher education, as used in this section, means an institution that meets the requirements of 20 U.S.C. 1001 and includes all subelements of such an institution.

[65 FR 2056, Jan. 13, 2000]

209.470-2 Policy.

(a) Except as provided in paragraph (b) of this subsection, 10 U.S.C. 983 prohibits DoD from providing funds by contract or grant to an institution of higher education if the Secretary of Defense determines that the institution has a policy or practice that prohibits or in effect prevents—