

**1209.471****48 CFR Ch. 12 (10-1-24 Edition)**

and aggravating factors. The contractor or individual may submit documentary evidence, present witnesses, and confront any person the agency presents.

(b) Witnesses may testify in person. Witnesses will be reminded of the official nature of the proceedings and that any false testimony given is subject to criminal prosecution. Witnesses are subject to cross-examination. The fact-finding proceeding is an informal evidentiary hearing, during which the Rules of Evidence and Civil Procedure do not apply. Hearsay evidence may be presented and will be given appropriate weight by the fact-finder.

(c) The proceedings shall be transcribed and a copy of the transcript shall be made available at cost to the contractor upon request, unless the contractor and the factfinder, by mutual agreement, waive the requirement for a transcript.

(d) The fact-finder shall prepare a written finding(s) of fact for the record by a preponderance of the evidence for proposed debarments, and by adequate evidence for suspensions. A copy of the findings of fact shall be provided to the SDO, the Government's representative, and the contractor or individual. The SDO will consider the written findings of fact in the decision regarding the suspension or proposed debarment.

**1209.471 Appeals.**

Based on the decision by the SDO, the respondent may elect to request reconsideration as provided for in paragraph (a) of this section. If the request for reconsideration is denied, the respondent may seek judicial review as provided for in paragraph (b) of this section.

(a) *Request for reconsideration.* Upon receiving a final decision to debar from the SDO, a debarred individual or entity may ask the SDO to reconsider the debarment decision or to modify the debarment by reducing the time period or narrowing the scope of the debarment. This request must be in writing and supported with documentation.

(b) *Judicial review.* A suspended or debarred individual or entity may seek judicial review upon denial of a request for reconsideration.

**Subpart 1209.5—Organizational and Consultant Conflicts of Interest****1209.507 Solicitation provisions and contract clause.****1209.507-270 Contract clauses.**

(a) In accordance with FAR 9.507-2, the contracting officer shall insert a clause substantially the same as the clause at 1252.209-70, Organizational and Consultant Conflicts of Interest, as applicable, in solicitations and contracts.

(b) In accordance with FAR 9.507-2, the contracting officer shall insert a clause substantially the same as the clause at 1252.209-71, Limitation of Future Contracting, as applicable, in solicitations and contracts.

**Subpart 1209.6—Contractor Team Arrangements****1209.602 General.**

(c) Contracting officers shall require offerors to disclose teaming arrangements as a part of any offer. The teaming arrangement shall be evaluated as a part of overall prime contractor responsibility, as well as under the technical and/or management approach evaluation factor where applicable.

**PART 1211—DESCRIBING AGENCY NEEDS****Subpart 1211.2—Using and Maintaining Requirements Documents**

Sec.

1211.204 Solicitation provisions and contract clauses.

1211.204-70 Contract clauses.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

SOURCE: 87 FR 61159, Oct. 7, 2022, unless otherwise noted.

**Department of Transportation****1212.301****Subpart 1211.2—Using and Maintaining Requirements Documents****1211.204 Solicitation provisions and contract clauses.****1211.204-70 Contract clauses.**

The contracting officer shall insert the clause at 1252.211-70, Index for Specifications, when an index or table of contents may be furnished with the specification.

**PART 1212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES****Subpart 1212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Products and Commercial Services**

Sec.

1212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

SOURCE: 87 FR 61159, Oct. 7, 2022, unless otherwise noted.

**Subpart 1212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Products and Commercial Services****1212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.**

(f) The following DOT provisions and clauses are authorized for use in acquisitions of commercial products or commercial services when required by the individual provision or clause prescription:

- (1) 1252.201-70, Contracting Officer's Representative.
- (2) 1252.204-70, Contractor Personnel Security and Agency Access.
- (3) 1252.209-70, Organizational and Consultant Conflicts of Interest.
- (4) 1252.209-71, Limitation of Future Contracting.
- (5) 1252.211-70, Index for Specifications.

(6) 1252.216-70, Evaluation of Offers Subject to an Economic Price Adjustment Clause.

(7) 1252.216-71, Determination of Award Fee.

(8) 1252.216-72, Award Fee Plan.

(9) 1252.216-73, Distribution of Award Fee.

(10) 1252.216-74, Settlement of Letter Contract.

(11) 1252.222-70, Strikes or Picketing Affecting Timely Completion of the Contract Work.

(12) 1252.222-71, Strikes or Picketing Affecting Access to a DOT Facility.

(13) 1252.223-70, Removal or Disposal of Hazardous Substances—Applicable Licenses and Permits.

(14) 1252.223-71, Accident and Fire Reporting.

(15) 1252.223-73, Seat Belt Use Policies and Programs.

(16) 1252.232-70, Electronic Submission of Payment Requests.

(17) 1252.237-70, Qualifications of Contractor Employees.

(18) 1252.237-71, Certification of Data.

(19) 1252.237-72, Prohibition on Advertising.

(20) 1252.237-73, Key Personnel.

(21) 1252.239-70, Security Requirements for Unclassified Information Technology Resources.

(22) 1252.239-71, Information Technology Security Plan and Accreditation.

(23) 1252.239-72, Compliance with Safeguarding DOT Sensitive Data Controls.

(24) 1252.239-73, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(25) 1252.239-74, Safeguarding DOT Sensitive Data and Cyber Incident Reporting.

(26) 1252.239-75, DOT Protection of Information About Individuals, PII, and Privacy Risk Management Requirements.

(27) 1252.239-76, Cloud Computing Services.

(28) 1252.239-77, Data Jurisdiction.

(29) 1252.239-78, Validated Cryptography for Secure Communications.

(30) 1252.239-79, Authentication, Data Integrity, and Non-Repudiation.

(31) 1252.239-80, Audit Record Retention for Cloud Service Providers.