

#### 9.110-4

and to students that is provided to any other employer; or

(4) Military recruiters from accessing certain information pertaining to students (who are 17 years of age or older) enrolled at that institution:

(i) Name, address, and telephone listings.

(ii) Date and place of birth, educational level, academic majors, degrees received, and the most recent educational institution enrolled in by the student.

(b) The prohibition in paragraph (a) of this section does not apply to an institution of higher education if the Secretary of Defense determines that—

(1) The institution has ceased the policy or practice described in paragraph (a) of this section; or

(2) The institution has a long-standing policy of pacifism based on historical religious affiliation.

[85 FR 67621, Oct. 23, 2020]

#### 9.110-4 Procedures.

If the Secretary of Defense determines, pursuant to the procedures at 32 CFR part 216, that an institution of higher education is ineligible to receive funds from a covered agency because of a policy or practice described in 9.110-3—

(a) The Secretary of Defense will create an active exclusion record for the institution in the System for Award Management; and

(b) A covered agency shall not solicit offers from, award contracts to, or consent to subcontracts with the institution. The prohibition in this paragraph (b) does not apply to acquisitions at or below the simplified acquisition threshold or to acquisitions of commercial products and commercial services, including commercially available off-the-shelf items.

[85 FR 67621, Oct. 23, 2020, as amended at 86 FR 61021, Nov. 4, 2021]

#### 9.110-5 Contract clause.

The contracting officer shall insert the clause at 52.209-14, Reserve Officer Training Corps and Military Recruiting on Campus, in solicitations and contracts that are expected to exceed the simplified acquisition threshold, with institutions of higher education, when

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using funds from a covered agency. The clause is not prescribed for solicitations and contracts using part 12 for the acquisition of commercial products and commercial services.

[85 FR 67621, Oct. 23, 2020, as amended at 86 FR 61021, Nov. 4, 2021]

### Subpart 9.2—Qualifications Requirements

SOURCE: 50 FR 35476, Aug. 30, 1985, unless otherwise noted.

#### 9.200 Scope of subpart.

This subpart implements 10 U.S.C. 3243 and 41 U.S.C. 3311 and prescribes policies and procedures regarding qualification requirements and the acquisitions that are subject to such requirements.

[79 FR 24199, Apr. 29, 2014, as amended at 87 FR 73896, Dec. 1, 2022]

#### 9.201 Definitions.

As used in this subpart—

*Qualified bidders list (QBL)* means a list of bidders who have had their products examined and tested and who have satisfied all applicable qualification requirements for that product or have otherwise satisfied all applicable qualification requirements.

*Qualified manufacturers list (QML)* means a list of manufacturers who have had their products examined and tested and who have satisfied all applicable qualification requirements for that product.

[50 FR 35476, Aug. 30, 1985, as amended at 53 FR 34227, Sept. 2, 1988; 66 FR 2128, Jan. 10, 2001]

#### 9.202 Policy.

(a)(1) The head of the agency or designee shall, before establishing a qualification requirement, prepare a written justification—

(i) Stating the necessity for establishing the qualification requirement and specifying why the qualification requirement must be demonstrated before contract award;

(ii) Estimating the likely costs for testing and evaluation which will be incurred by the potential offeror to become qualified; and