

The Pentagon on Dec. 29 announced it will significantly narrow the scope of contracts it will subject to tighter conflict-of-interest rules.

In a final rule published in the U.S. Federal Register, the Defense Department said it will exempt information technology and professional services contracts from being subject to the new rules. Only contracts relating to major weapon systems and systems engineering and technical assistance will be subject.

The rules aim to prevent contractors from taking government work that could benefit their financial interests or those of their corporate partners. For example, the rules try to prevent a company from providing consulting services that could favor that company's products or services or those of a corporate partner.

DoD said extending coverage of the rules to all types of acquisitions would have created confusion and delayed the release of a final rule because it would have required possible modifications to the Federal Acquisition Regulation in addition to the Defense Federal Acquisition Regulation Supplement.

The rule requires that program officers overseeing major defense programs address the risk of conflicts of interest, especially when considering subcontracts for software integration or the development of proprietary software systems.

Companies are not able to perform systems engineering or technical assistance work - which may include advising the Defense Department on aspects of procurements - while also working as a prime contractor or major subcontractor on the project. This includes advising Defense and even directing other contractors' operations, excluding subcontractors.

But the rules allow for exceptions if the contracting officer determines that DoD needs the expertise and the contractor will be able to provide unbiased advice.

Under the rule, contracting officers are instructed not to use across-the-board approaches to resolve possible conflicts of interest. It also says that if a conflict of interest cannot be mitigated by the contractor or DoD, the contracting officer should use another approach, choose another contractor or request a waiver.

Industry groups objected to DoD's original version of the rules, which called on contracting officers to mitigate all conflicts of interest as the "preferred method," instead of the other options.