

an unsatisfied final judgment in favor of the FDIC, the FSLIC, or the RTC;

(11) That neither the contractor nor any of its related entities is a party to a lawsuit in which the FDIC, the FSLIC, or the RTC is seeking recovery in excess of \$50,000 from the contractor or its related entities; and

(12) That the contractor will not employ any individual or subcontractor to perform work on the contract who:

(i) Has been convicted of any felony;

(ii) Has been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any federal banking agency;

(iii) Has demonstrated a pattern or practice of defalcation;

(iv) Has caused a substantial loss to Federal deposit insurance funds; or

(v) Is currently in default on any obligation to the FDIC, the FSLIC, an insured depository institution or the RTC.

Depending upon the nature of the contract, a contractor may be required to submit such additional certifications or information with respect to its activities and those of its related entities as the RTC deems appropriate.

(b) *Procedures.* (1) A contractor who cannot furnish any one or more of the certifications required by paragraph (a) of this section shall provide information which fully explains the circumstances giving rise to its inability to furnish the certification(s). The Contractors' Conflicts Committee, or the Outside Counsels' Conflicts Committee, will determine whether a contractor who cannot furnish any one or more of the certifications required by paragraph (a) of this section is deemed to meet minimum standards of fitness and integrity.

(2) A contractor may consolidate the responses of its related entities in furnishing the certifications required by paragraphs (a)(1) through (a)(11) of this section or in providing the information required by paragraph (b)(1) of this section. If a consolidated response is submitted, the contractor shall retain the information obtained from its related entities upon which it relied in preparing the certifications during the term of the contract and for a period of three years following the termination

or expiration of the contract and shall make such information available for review by the RTC upon request.

(3) Before permitting any individual to perform work pursuant to the contract, the contractor shall obtain such information from such individual as will permit it to furnish the certification to comply with paragraph (a)(12) of this section. The contractor shall retain the information upon which it relied in preparing the certification during the term of the contract and for a period of three years following the termination or expiration of the contract and shall make such information available for review by the RTC upon request. Whenever a contractor receives information indicating that the certification or any information upon which it relied in preparing the certification is incorrect in any material respect, the contractor shall promptly notify the RTC and shall not permit the individual to whom the information relates to perform work pursuant to the contract.

(4) Before permitting any subcontractor to perform work pursuant to the contract, the contractor shall determine that the subcontractor has been determined to be qualified to provide services to the RTC.

(c) *Delay.* The RTC, in case of an emergency, to preserve assets of the RTC, may delay implementation of the certification or other requirements of this section.

(Approved by the Office of Management and Budget under control number 3205-0001)

[55 FR 5350, 5356, Feb. 14, 1990; 55 FR 11720, Mar. 29, 1990]

§ 1506.5 Disqualification of contractors.

(a) *Mandatory ineligibility.* A contractor shall be deemed not to meet minimum standards of fitness and integrity, and therefore ineligible to contract with the RTC, if the contractor:

(1) Is an individual and has been convicted of a felony;

(2) Has been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any federal banking agency;

(3) Has demonstrated a pattern or practice of defalcation;

(4) Has caused a substantial loss to Federal deposit insurance funds; or

(5) Is currently in default on an obligation(s) to the FDIC, the FSLIC, or the RTC.

(b) *Discretionary disqualification.* The RTC may determine that a contractor, not subject to mandatory ineligibility pursuant to paragraph (a) of this section, nevertheless does not meet minimum standards of fitness and integrity to perform work for the RTC because the past activities of the contractor, or a related entity, warrant such determination.

(c) *Notification of disqualification.* The RTC shall notify the contractor in writing of its determination of mandatory or discretionary disqualification and the reason for such determination not later than 30 days after the determination is made. The RTC will institute procedures to provide appropriate review of discretionary disqualification decisions.

[55 FR 5350, 5356, Feb. 14, 1990; 55 FR 11720, Mar. 29, 1990]

§ 1506.6 Organizational conflicts of interest.

(a) *Information required about the contractor.* A contractor shall provide to the RTC with any bid, proposal, or offer in regard to the rendering of services to the RTC, or if no bid, proposal or offer is submitted, prior to entering into a contract with the RTC, sufficient information to permit the RTC to make a determination with regard to organizational conflicts of interest. The scope of the required information will depend on the nature of the contract and will be determined at the time of solicitation, or prior to entering into the contract. The following information shall be required about the contractor and its related entities:

(1) Relationships of the contractor and its related entities as controlling shareholder of any Federally insured depository institution or depository institution holding company;

(2) The names and addresses of contractor's related entities and a description of each related entity's business;

(3) The names of any contractor's related entities who have been or are di-

rectors or officers of an insured depository institution or depository institution holding company;

(4) A list of all competing property of the contractor and its related entities, if the contract relates to the valuation, disposition, or management of real estate;

(5) Information concerning any other business or financial interest of the contractor, or its related entities, which could adversely affect the contractor's ability to perform under the contract or to represent the RTC;

(6) Any information required to comply with the requirements of § 1506.4(b)(4); and

(7) Any other information about the contractor or its related entities which may be requested by the RTC.

(b) *Certification required.* At the time the contractor provides the information required by paragraph (a) of this section, the contractor shall also provide the following certification:

(1) That no organizational conflict exists as a result of the contractor's interests, relationships, or other RTC contracts;

(2) That the contractor has obtained a certification from each of its related entities that no organizational conflict exists as a result of the related entity's interests, relationships or other RTC contracts; and

(3) That, to the best of the contractor's knowledge, no organizational conflict exists as a result of its related entities' interests, relationships, or other RTC contracts; or, if organizational conflicts exist, provide information:

(i) Detailing those conflicts;

(ii) Requesting a waiver from the Contractors' Conflicts Committee or the Outside Counsels' Conflicts Committee; and

(iii) Including with the request any information it deems appropriate to support the issuance of a waiver.

(c) *Determination required.* Prior to entering into any contract, the RTC must conclude that no organizational conflict of interest exists or that, if such conflict exists, it has been waived by the Contractors' Conflicts Committee or the Outside Counsels' Conflicts Committee.

(d) *Retention of information.* Information obtained by the contractor to