

(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

comply with paragraph (a) of this section and to make the certifications required by paragraph (b) of this section shall be retained during the term of the contract and for a period of three years following termination or expiration of the contract and shall be made available for review by the RTC upon request, except to the extent that disclosure is prohibited by law.

(e) *Subsequent notification.* Within 10 days after learning of an organizational conflict of interest, the contractor shall notify the RTC of the conflict of interest and either describe the steps it has taken to eliminate the conflict or request a waiver from the Contractors' Conflicts Committee or the Outside Counsels' Conflicts Committee.

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

§ 1506.7 Personal conflicts of interest.

(a) *Contractor's responsibility.* A contractor shall ensure that all management officials and key employees have no personal conflicts of interest.

(b) *Information required.* A contractor shall obtain from its management officials and key employees the following information about the personal, business, and financial relationships of themselves, their spouses, and minor children;

(1) Loans from, employment by, or an ownership interest in the depository institution whose assets are the subject of the contract;

(2) Relationships within the last five years with any other insured depository institution, or depository institution holding company, as an officer, director, or controlling shareholder or employee;

(3) Financial, business, or close personal relationships with any person or entity, who to their knowledge, has an interest in the assets which are the subject of the contract, including information about negotiations or arrangements for future employment with such person or entity;

(4) A list and description of any instance during the preceding five years in which there was a default on any material obligation to an insured depository institution; and

(5) Any other information deemed necessary by the RTC.

(c) *Certification.* The contractor shall determine whether any management official or key employee has an interest which conflicts with responsibilities to the RTC. In making those determinations the contractor may rely on the information obtained pursuant to paragraph (b) of this section, unless the contractor has reason to believe that the information provided is false or inaccurate.

(d) *Disqualification.* The contractor shall disqualify persons with personal conflicts of interests from performing work pursuant to the contract. If appropriate, the contractor may seek a waiver from the Contractors' Conflicts Committee or the Outside Counsels' Conflicts Committee, to allow employment of an individual with a personal conflict of interest on the contract work. In addition, the contractor shall certify to the RTC that all management officials and key employees for whom no waiver is sought, have no business, personal, or financial interest which conflicts with responsibilities to the RTC.

(e) *Contractors' Responsibilities.* The contractor shall establish a procedure to monitor for interests which conflict with the performance of contract responsibilities. The contractor shall require management officials and key employees to provide the required information prior to employment on the contract work, and to update information within 10 days of any change.

(f) *Subsequent notification.* Within 10 days after learning of a management official's or key employee's conflict of interest, the contractor shall notify the RTC of the conflict and either describe the steps it has taken to eliminate the conflict or request a waiver from the Contractors' Conflicts Committee or the Outside Counsels' Conflicts Committee.

(g) *Retention of information.* Information obtained by a contractor from its management officials and key employees pursuant to paragraph (b) of this section shall be retained during the term of the contract and for a period of three years following termination or expiration of the contract and shall be made available for review by the RTC