**DFARS Case 2024-D023**

**Limitation on Certain Institutes of Higher Education**

**Final Rule**

**PART 209—CONTRACTOR QUALIFICATIONS**

**SUBPART 209.1—responsible prospective contractors**

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**209.170** **Restriction on the use of certain institutions of higher education.**

**209.170-0 Scope.**

This section implements section 1062 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283).

**209.170-1 Definitions.**

As used in this section—

‘‘Confucius Institute’’ means**[**—

**(1) Any program that receives funding or support from—**

**(i) The Chinese International Education Foundation; or**

**(ii) The Center for Language Exchange Cooperation of the Ministry of Education of the People’s Republic of China; or**

**(2) Any]**~~a~~ cultural institute directly or indirectly funded by the government of the People’s Republic of China.

‘‘Institution of higher education’’ has the meaning given in 20 U.S.C. 1002.

**209.170-2 Restriction.**

None of the funds authorized to be appropriated or otherwise made available for any fiscal year for DoD may be used to contract with an institution of higher education that hosts a Confucius Institute, other than amounts provided directly to students as educational assistance. Contracting officers shall not enter into a contract with any institution of higher education that hosts a Confucius Institute, unless a waiver has been granted.

**209.170-3 Waiver of restriction.**

The restriction in 209.170-2 can be waived by the Office of the Under Secretary of Defense (Research and Engineering), without power of delegation, in accordance with the Confucius Institute Waiver Program guidance. **[The waiver authority terminates on October 1, 2026. Any waiver issued shall not apply on or after that date.]** See PGI 209.170-**[3]**~~4~~.

**209.170-4 Solicitation provision.**

Use the provision at 252.209-7011, Representation for Restriction on the Use of Certain Institutions of Higher Education, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, for acquisitions to an institution of higher education.

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**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

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**subpart 252.2—text of provisions and clauses**

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**252.209-70****11 Representation for Restriction on the Use of Certain Institutions of Higher Education.**

As prescribed in 209.170-4, use the following provision:

REPRESENTATION FOR RESTRICTION ON THE USE OF CERTAIN INSTITUTIONS OF HIGHER EDUCATION (~~OCT 2023~~**[AUG 2025]**)

(a) *Definitions*. As used in this provision—

‘‘Confucius Institute’’ means**[**—

**(1) Any program that receives funding or support from—**

**(i) The Chinese International Education Foundation; or**

**(ii) The Center for Language Exchange Cooperation of the Ministry of Education of the People’s Republic of China; or**

**(2) Any]**~~a~~ cultural institute directly or indirectly funded by the government of the People’s Republic of China.

‘‘Institution of higher education’’ has the meaning given in 20 U.S.C. 1002.

(b) *Restriction.* As required by section 1062 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283), DoD may not award a contract with any institution of higher education that hosts a Confucius Institute. Section 1062 prohibits DoD from providing funding to any U.S. institution of higher education hosting a Confucius Institute unless that institution receives a waiver from the Department of Defense Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)). **[The waiver authority terminates on October 1, 2026. Any waiver issued will not apply on or after that date.]** See the OUSD(R&E) Confucius Institute Waiver Program Guidance to U.S. Institutions of Higher Education at *https://rt.cto.mil/wp-content/uploads/Confucius-Institute-Waiver-Program-Guidance-28Mar2023.pdf*.

(c) *Representation*. By submission of an offer, the Offeror represents that—

(1) It is not an institution of higher education that hosts a Confucius Institute; or

(2) The Offeror has obtained a waiver approved by OUSD(R&E).

(End of provision)