PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Authority: 5 U.S.C. 301-302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

Source: 68 FR 67871, Dec. 4, 2003, unless otherwise noted.

Subpart 3003.1—Safeguards

3003.101 Standards of conduct.

3003.101-3 Agency regulations.

Subpart 3003.2—Contractor Gratuities to Government Personnel

3003.203 Reporting suspected violations of the Gratuities clause.

3003.204 Treatment of violations.

Subpart 3003.3—Reports Of Suspected Antitrust Violations

3003.301 General.

Subpart 3003.4—Contingent Fees

3003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 3003.5—Other Improper Business Practices

3003.502 Subcontractor kickbacks.

3003.502-2 Subcontractor kickbacks.

Subpart 3003.9—Whistleblower Protections for Contractor Employees

3003.901 Definitions.

Subpart 3003.10—Contractor Code of Business Ethics and Conduct

3003.1003 Requirements.

3003.1004 Contract clauses.

Parent topic: SUBCHAPTER A—GENERAL

Subpart 3003.1—Safeguards

3003.101 Standards of conduct.

3003.101-3 Agency regulations.

The United States Office of Government Ethics has promulgated regulations applicable to the entire Executive Branch that address the conduct matters referenced in (FAR) 48 CFR 3.101-3. See 5 CFR vol. 3, ch. XVI, subch. B. The Department of Homeland Security has also issued a supplemental ethics regulation at 5 CFR part 4601 and Management Directive 0480.1, Ethics/Standards of Conduct.

Subpart 3003.2—Contractor Gratuities to Government Personnel

3003.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations shall be reported to the contracting officer responsible for the acquisition (or the COCO if the contracting officer is suspected of the violation). The contracting officer (or the COCO) shall obtain from the person reporting the violation, and any witnesses to the violation, the following information:

(1) The date, time, and place of the suspected violation;

(2) The name and title (if known) of the individual(s) involved in the violation; and

(3) The details of the violation (e.g., the gratuity offered or intended) to obtain a contract or favorable treatment under a contract.

(4) The person reporting the violation and witnesses (if any) shall be requested to sign and date the information certifying that the information furnished is true and correct.

(b) The contracting officer shall submit the report to the COCO (unless the alleged violation was directly reported to the COCO) and the Head of the Contracting Activity (HCA) for further action. The COCO and HCA will determine, with the advice of the Component legal counsel, whether the case warrants submission to the OIG, or other investigatory organization.

3003.204 Treatment of violations.

(a) The HCA is the official designated to make the determination under (FAR) 48 CFR 3.204(a) whether a gratuities violation has occurred. If the HCA has been personally and substantially involved in the specific procurement, the advice of legal counsel should be sought to determine whether the CPO should designate an alternate decision maker.

(b) The HCA shall ensure that the hearing procedures required by (FAR) 48 CFR 3.204(b) are

afforded to the contractor. Legal counsel shall be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the HCA determines that the alleged gratuities violation occurred the HCA shall consult with legal counsel regarding appropriate action and notify the Office of Inspector General.

Subpart 3003.3—Reports Of Suspected Antitrust Violations

3003.301 General.

(b) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for suspected antitrust violations, except reports of suspected antitrust violations shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

Subpart 3003.4—Contingent Fees

3003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees.

(b)(4) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees, except reports of misrepresentation or violations of the covenant against contingent fees shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

Subpart 3003.5—Other Improper Business Practices

3003.502 Subcontractor kickbacks.

3003.502-2 Subcontractor kickbacks.

(g) The DHS OIG shall receive the prime contractor or subcontractors written report.

Subpart 3003.9—Whistleblower Protections for Contractor Employees

3003.901 Definitions.

Authorized official of an agency means the Department of Homeland Security's CPO.

Subpart 3003.10—Contractor Code of Business Ethics and Conduct

Source: 77 FR 50633, Aug. 22, 2012, unless otherwise noted.

3003.1003 Requirements.

(a) *Contractor requirements.* Contractors making written disclosures under the clause at (FAR) 48 CFR 52.203-13 must use the electronic Contractor Disclosure Form at *http://www.oig.dhs.gov* or *https://www.oig.dhs.gov/reports/publications/annual/contractor-disclosu…*. Contractors making disclosures under contracts which do not contain the clause at (FAR) 48 CFR 52.203-13 are encouraged to also use this electronic form.

3003.1004 Contract clauses.

(a) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.203-70, Instructions for Contractor Disclosure of Violations, in solicitations and contracts containing the clause at (FAR) 48 CFR 52.203-13.