Subpart 203.1 - SAFEGUARDS

Parent topic: Part 203 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

203.104 Procurement integrity.

203.104-1 Definitions.

Federal agency procurement, defined at FAR 3.104-1, also includes commercial solutions openings.

203.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(d)(3) For purposes of FAR 3.104-4(d)(3) only, DoD follows the notification procedures in FAR 27.404-5(a). However, FAR 27.404-5(a)(1) does not apply to DoD.

203.170 Business practices.

To ensure the separation of functions for oversight, source selection, contract negotiation, and contract award, departments and agencies shall adhere to the following best practice policies:

(a) Senior leaders shall not perform multiple roles in source selection for a major weapon system or major service acquisition.

(b) Vacant acquisition positions shall be filled on an “acting” basis from below until a permanent appointment is made. To provide promising professionals an opportunity to gain experience by temporarily filling higher positions, these oversight duties shall not be accrued at the top.

(c) Acquisition process reviews of the military departments shall be conducted to assess and improve acquisition and management processes, roles, and structures. The scope of the reviews should include—

(1) Distribution of acquisition roles and responsibilities among personnel;

(2) Processes for reporting concerns about unusual or inappropriate actions; and

(3) Application of DoD Instruction 5000.2, Operation of the Defense Acquisition System, and the disciplines in the Defense Acquisition Guidebook.

(d) Source selection processes shall be—

(1) Reviewed and approved by cognizant organizations responsible for oversight;

(2) Documented by the head of the contracting activity or at the agency level; and

(3) Periodically reviewed by outside officials independent of that office or agency.

(e) Legal review of documentation of major acquisition system source selection shall be conducted prior to contract award, including the supporting documentation of the source selection evaluation board, source selection advisory council, and source selection authority.

(f) Procurement management reviews shall determine whether clearance threshold authorities are clear and that independent review is provided for acquisitions exceeding the simplified acquisition threshold.

203.171 Senior DoD officials seeking employment with defense contractors.

203.171-1 Scope.

This section implements section 847 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

203.171-2 Definition.

“Covered DoD official” as used in this section, is defined in the clause at 252.203-7000 , Requirements Relating to Compensation of Former DoD Officials.

203.171-3 Policy.

(a) A DoD official covered by the requirements of section 847 of Pub. L. 110-181 (a “covered DoD official”) who, within 2 years after leaving DoD service, expects to receive compensation from a DoD contractor, shall, prior to accepting such compensation, request a written opinion from the appropriate DoD ethics counselor regarding the applicability of post-employment restrictions to activities that the official may undertake on behalf of a contractor.

(b) A DoD contractor may not knowingly provide compensation to a covered DoD official within 2 years after the official leaves DoD service unless the contractor first determines that the official has received, or has requested at least 30 days prior to receiving compensation from the contractor, the post-employment ethics opinion described in paragraph (a) of this section.

(c) If a DoD contractor knowingly fails to comply with the requirements of the clause at 252.203-7000 , administrative and contractual actions may be taken, including cancellation of a procurement, rescission of a contract, or initiation of suspension or debarment proceedings.

203.171-4 Solicitation provision and contract clause.

(a) Use the clause at 252.203-7000 , Requirements Relating to Compensation of Former DoD Officials, in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services.

(b) Use the provision at 252.203-7005 , Representation Relating to Compensation of Former DoD Officials, in all solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services and solicitations for task orders and delivery orders.