Subpart 5103.1 - Safeguards

Parent topic: Part 5103 - Improper Business Practices and Personal Conflicts of Interest

5103.104 Procurement integrity.

The Army General Counsel is the Designated Agency Ethics Official (DAEO). The General Counsel has designated deputy DAEOs (DDAEOs) and has delegated to them the authority to act on his behalf concerning procurement integrity matters. The General Counsel has authorized DDAEOs to further delegate that authority to subordinate ethics counselors under their area of responsibility.

5103.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) or Contracting officer may disclose contractor bid or proposal information or source selection information to facilitate timely access to information by higher Headquarters personnel and external stakeholders who require such access in the performance of their official duties. See Appendix GG . Personnel serving in the following positions are authorized access to contractor bid or proposal information and source selection information to the extent necessary to perform their official duties:

(i) Personnel assigned to the Office of the Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA(ALT)), Office of the Assistant Secretary of the Army for Financial Management & Comptroller (ASA(FMC)) and the Office of the Army General Counsel, who are performing Headquarters, Department of the Army level reviews or oversight.

(ii) Personnel participating in the evaluation of an offeror’s or bidder’s proposal or in the review and defense of protests.

(iii) Personnel in the responsible contracting office, along with supporting legal and small business office personnel.

(iv) Personnel in the requiring activity having principal technical cognizance over the requirement, to include those with technical oversight responsibilities.

(v) Personnel assigned to the Defense Contract Audit Agency and contract administration offices of the DoD, who are supporting the procurement.

(vi) Personnel assigned to the DoD Office of Cost Assessment and Program Evaluation (CAPE) performing reviews or oversight.

(vii) Other personnel whom the Deputy Assistant Secretary of the Army (Procurement), the HCA, Contracting officer, or the source selection authority designates on an individual basis.

(b) Follow the procedures at AFARS PGI 5103.104-4-1 Access to Contract Procurement Data and Documentation to provide access.

5103.104-5 Disqualification.

(c)(2) The head of contracting activity shall make the determination as described in FAR 3.104-5(c)(2). See Appendix GG for further delegation.

5103.104-6 Ethics advisory opinions regarding prohibitions on a former officials acceptance of compensation from a contractor.

(c) The appropriate agency ethics official to provide an ethics advisory opinion is any properly appointed ethics official or ethics counselor within the servicing legal office for the last unit or organization to which the former official was assigned.

5103.104-7 Violations or possible violations.

(a) If a Contracting officer receives information of a violation or possible violation of the Restrictions on Obtaining and Disclosing Certain Information statute and –

(1) Concludes that there is no impact on the procurement, the Contracting officer must forward the information to the chief of the contracting office who will follow the procedures set forth in FAR 3.104-7(a)(1); or

(2) Concludes that the violation or possible violation impacts the procurement, the Contracting officer must promptly forward the information through the chief of the contracting office to the HCA.

(b) Upon receipt of information, the HCA, on a non-delegable basis, must take appropriate action after consulting with the Contracting officer and legal counsel.

(f) The HCA must:

(i) Notify the ASA(ALT) (see AFARS 5101.290) when the HCA has determined that urgent and compelling circumstances justify an award, or award is otherwise in the interests of the Government; and

(ii) Obtain written verification that the ASA(ALT) has received the notification before authorizing award of the contract or execution of the contract modification.

5103.171 Senior DoD officials seeking employment with defense contractors.

5103.171-3 Policy.

(a) The appropriate agency ethics official to provide a written opinion regarding the applicability of post-employment restrictions to a covered DoD official is any properly appointed ethics official or ethics counselor within the servicing legal office for the last unit or organization to which the covered DoD official was assigned.