PART 1303 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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Subpart 1303.1 - Safeguards

1303.101 Standards of conduct.

1303.101-2 Solicitation and acceptance of gratuities by government personnel.

(a) Suspected violations of the prohibition on soliciting and accepting gratuities shall be reported to the Office of the Inspector General in accordance with DAO 207-10, *Inspector General Investigations.*

(b) To obtain legal advice regarding the solicitation and acceptance of gratuities, contact the Office of the Assistant General Counsel for Administration, Ethics Law and Program Division.

1303.101-3 Agency regulations.

The Department has issued rules implementing Executive Order 11222 prescribing employee standards of conduct (*see* DOC Office of General Counsel Web site).

1303.104 Procurement integrity.

1303.104-4 Disclosure, protection and marking of contractor bid or proposal information and source selection information.

Contractor bid or proposal information and source selection information must be protected from unauthorized disclosure in accordance with FAR Parts 3, 14 and 15, and CAM 1315.3.

1303.104-7 Violations or possible violations.

Suspected violations of the Procurement Integrity Act shall be reported to the individuals designated in CAM 1301.70.

Subpart 1303.2 - Contractor Gratuities to Government Personnel

1303.203 Reporting suspected violations of the gratuities clause.

Suspected violations of the Gratuities clause shall be reported to the HCA in writing detailing the circumstances. The report must identify the contractor and personnel involved, provide a summary of the pertinent evidence and circumstances that indicate a violation, and include any other available supporting documentation. The HCA will evaluate the report, and, if the allegations appear to support a violation, the matter will be referred to the Head of Contracting Office with copies provided to the Senior Procurement Executive and the DOC Office of Inspector General. *See* DAO 207-10 for procedures.

1303.204 Treatment of violations.

(a) The designee authorized to determine violations of the Gratuities clause is set forth in CAM 1301.70.

(b) Upon receipt of an allegation or evidence of a violation of the Gratuities clause, the designee shall conduct a fact-finding. If there is a basis for further action, a signed notice shall be prepared and sent to the contractor by certified mail, return receipt requested, or any other method that provides signed evidence of receipt. If a reply is not received from the contractor within 45 calendar days of sending the notice, a decision shall be made on the appropriate action to be taken. If a reply is received from the contractor within 45 calendar days of sending the notice, the information in the reply must be considered before making a decision on the appropriate action to be taken. Upon request of the contractor, the contractor shall be provided an opportunity to appear in person to present information concerning the matter. A report shall be prepared following the presentation and the information must be considered when making a decision. A decision shall be made on the basis of all information available, including findings of fact and oral or written information submitted by the contractor. All mitigating factors shall be considered prior to making a final decision concerning what action will be taken.

Subpart 1303.3 - Reports of Suspected Antitrust Violations

1303.303 Reporting suspected antitrust violations.

Suspected anti-competitive practices and antitrust law violations, as described in FAR 3.301 and FAR 3.303, shall be reported to the Contract Law Division, by the HCO. A copy of the report shall be

sent to the Procurement Executive concurrently with the submission to the Office of the Assistant General Counsel for Administration, Ethics Law and Program Division. The Office of the Assistant General Counsel will submit any required reports to the Attorney General.

Subpart 1303.4 - Contingent Fees

1303.405 Misrepresentations or violations of the covenant against contingent fees.

If the contracting officer has specific evidence or other reasonable basis to believe that a violation of the Covenant Against Contingent Fees has occurred, the matter shall be referred to the HCO, who shall, in appropriate circumstances, take one or more of the actions described in FAR 3.405(b). The HCO shall also refer the matter to the DOC Office of the Inspector General as well as the Office of the Assistant General Counsel for Administration, Ethics Law and Program Division. The Office of the Assistant General Counsel for Administration, Ethics Law and Program Division shall refer the matter to the Department of Justice, as appropriate.

Subpart 1303.5 - Other Improper Business Practices

1303.502 Subcontractor kickbacks.

1303.502-2 Subcontractor kickbacks.

Suspected violations of the Anti-Kickback Act of 1986 shall be reported to the DOC Office of Inspector General.

Subpart 1303.6 - Contracts With Government Employees or Organizations Owned or Controlled by Them

1303.602 Exceptions.

The designee authorized to make an exception to the policy in FAR 3.601 is set forth in CAM 1301.70.

Subpart 1303.7 - Voiding and Rescinding Contracts

1303.704 Policy.

The designee authorized to declare void and rescind contracts, in cases in which there has been a

final conviction for any violation of 18 U.S.C. 201-224, is set forth in CAM 1301.70.

1303.705 Procedures.

The designee authorized to declare a contract void and rescinded is set forth in CAM 1301.70. The DOC will follow the procedures set forth in FAR 3.705.

Subpart 1303.8 - Limitation on the Payment of Funds To Influence Federal Transactions

1303.804 Policy.

The original OMB Form LLL, Disclosure of Lobbying Activities, shall be retained in the contract file and a copy shall be submitted to the Office of the Assistant General Counsel for Administration, Ethics Law and Program Division.

1303.806 Processing suspected violations.

Suspected violations of 31 U.S.C. 1352 shall be referred to the DOC Office of Inspector General and the Senior Procurement Executive.

Subpart 1303.9 - Whistleblower Protections for Contractor Employees

1303.905 Procedures for investigating complaints.

The designee authorized to take specified actions related to Inspector General findings regarding whistleblower complaints of contractor employees is set forth in CAM 1301.70.

1303.906 Remedies.

The designee authorized to determine whether a contractor has subjected an employee to reprisal and to determine the appropriate remedy is set forth in CAM 1301.70.