PART 1503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Authority: 5 U.S.C. 301 and 41 U.S.C. 1707.

Source: 81 FR 31178, May 18, 2016, unless otherwise noted.

1503.000 Scope of part.

Subpart 1503.1—Safeguards

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Parent topic: SUBCHAPTER A—GENERAL

1503.000 Scope of part.

This part implements FAR part 3, cites EPA regulations on employee responsibilities and conduct, establishes responsibility for reporting violations and related actions, and provides for authorization of exceptions to policy.

Subpart 1503.1—Safeguards

1503.101-370 Financial conflicts of interest and loss of impartiality.

(a) Each EPA employee (including special government employees as defined by 18 U.S.C. 202 and 1503.600-71(b)) engaged in source evaluation and selection is required to abide by and be familiar with the conflict of interest statutes codified in Title 18 of the United States Code, as well as the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635.

(b) Pursuant to the financial conflict of interest statute, 18 U.S.C. 208 and 5 CFR part 2635, subparts D and E, each employee must abide by ethics requirements regarding financial conflict of interest and impartiality in performing official duties. The employee shall inform his or her Deputy Ethics Official and the Source Selection Authority (SSA) in writing if his/her participation in the source evaluation and selection process may raise possible or apparent conflict of interest or impartiality concerns. The employee must cease work on the source evaluation and selection process until the appropriate ethics official makes a determination. Please note that only the Office of General Counsel can direct employees to divest of financial interests or to recommend any waivers of the financial conflict of interest standards.

1503.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a)

(1) The Chief of the Contracting Office (CCO) is the designated official to make the decision whether support contractors are used in proposal evaluation (as authorized at FAR 15.305(c) and restricted at FAR 37.203(d)).

(2) The following written certification and agreement shall be obtained from non-Government evaluator prior to the release of any proposal to that evaluator:

“Certification on the Use and Disclosure of Proposals”

RFP #:

Offeror:

1. I hereby certify that to the best of my knowledge and belief, no conflict of interest exists that may diminish my capacity to perform an impartial, technically sound, objective review of this proposal(s) or otherwise result in a biased opinion or unfair competitive advantage.

2. I agree to use any proposal information only for evaluation purposes. I agree not to copy any information from the proposal(s), to use my best effort to safeguard such information physically, and not to disclose the contents of nor release any information relating to the proposal(s) to anyone outside of the evaluation team assembled for this acquisition or individuals designated by the Contracting Officer.

3. I agree to return to the Government all copies of proposals, as well as any abstracts, upon completion of the evaluation.

Name and Organization:

Date of Execution:

(End of certificate)

(b) Information contained in proposals will be protected and disclosed to the extent permitted by law, and in accordance with FAR 3.104-4, 15.207, and Agency procedures at 40 CFR part 2.

Subpart 1503.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

1503.600-70 Scope of subpart.

This subpart implements and supplements FAR subpart 3.6 and sets forth EPA policy and procedures for identifying and dealing with conflicts of interest and improper influence or favoritism in connection with contracts involving current or former EPA employees. This subpart does not apply to agreements with other departments or agencies of the Federal Government, nor to contracts awarded to State or local units of Government.

1503.600-71 Definitions.

(a) *Employee* means an EPA officer and an individual who is appointed in the civil service and engaged in the performance of a Federal function under authority of law or an Executive act. See 5 U.S.C. 2105.

(b) *Special government employee* means an officer or employee of EPA who is retained, designated, appointed or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. See 18 U.S.C. 202.

1503.601 Policy.

(a) No contract may be awarded without competition to a former employee or special government employee (or to a business concern or other organization owned or substantially owned or controlled by a former employee) whose employment terminated within 365 calendar days before submission of a proposal to EPA.

(b) No contract shall be awarded without competition to a firm which employs, or proposes to employ, a current employee or special government employee, or a former EPA employee or special government employee, whose employment terminated within 365 calendar days before submission of a proposal to EPA, if either of the following conditions exists:

(1) The current or former EPA employee or special government employee is or was involved in development or negotiating the proposal for the prospective contractor; or

(2) The current or former EPA employee or special government employee will be involved directly or indirectly in the management, administration, or performance of the contract.

1503.602 Exceptions.

The Assistant Administrator for the Office of Administration and Resources Management may authorize an exception, in writing, to the policy in FAR 3.601 and 1503.601 for the reasons stated in FAR 3.602, if the exception would not involve a violation of 18 U.S.C. 203, 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, or the EPA supplemental regulations at 5 CFR part 6401. The Assistant Administrator shall consult with the Designated Agency Ethics Official before authorizing any exceptions.

1503.670 Disclosure provision.

The Contracting Officer shall insert the provision at 1552.203-70, *Current/Former Agency Employee Involvement Certification,* in all solicitations for sole-source acquisitions.

Subpart 1503.9—Whistleblower Protections for Contractor Employees

1503.905 Procedures for investigating complaints.

The Assistant Administrator for the Office of Administration and Resources Management is designated as the recipient of the written report of findings by the Inspector General. The Assistant Administrator shall ensure that the report of findings is disseminated in accordance with FAR 3.905(c).

Subpart 1503.10—Contractor Code of Business Ethics and Conduct

1503.1002 Policy.

Government contractors must conduct themselves with the highest degree of integrity and honesty.

Contractors should have standards of conduct and internal control systems that:

(a) Are suitable to the size of the company and the extent of their involvement in Government contracting;

(b) Promote such standards;

(c) Facilitate timely discovery and disclosure of improper conduct in connection with Government contracts; and

(d) Ensure corrective measures are promptly instituted and carried out.

1503.1003 Requirements.

(a) A contractor's system of management controls should provide for:

(1) A written code of business ethics and conduct and an ethics training program for all employees;

(2) Periodic reviews of company business practices, procedures, policies and internal controls for compliance with standards of conduct and the special requirements of Government contracting;

(3) A mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports;

(4) Internal and/or external audits, as appropriate;

(5) Disciplinary action for improper conduct;

(6) Timely reporting to appropriate Government officials of any suspected or possible violation of law in connection with Government contracts or any other irregularities in connection with such contracts; and

(7) Full cooperation with any Government agencies responsible for either investigation or corrective actions.

(b) Contractors who are awarded an EPA contract of $1 million or more must display EPA Office of Inspector General Hotline Posters unless the contractor has established an internal reporting mechanism and program as described in paragraph (a) of this section.

1503.1004 Contract clause.

As required by EPAAR 1503.1003(b), the contracting officer shall insert the clause at 1552.203-71, *Display of EPA Office of Inspector General Hotline Poster,* in all contracts valued at $1,000,000 or more, including all contract options.

1503.1070 Scientific integrity.

The EPA's Scientific Integrity Policy is based on a Presidential Memorandum for the Heads of Executive Departments and Agencies, Subject Line: Scientific Integrity, Dated: March 9, 2009. The

memorandum directs the Director of the Office of Science and Technology Policy (OSTP) to work with the Office of Management and Budget (OMB) and agencies to develop policies to ensure all scientific work developed and used by the Government is done with scientific integrity. OSTP issued further guidance in the Scientific Integrity memorandum dated December 17, 2010. This section and clause complement the EPA's Scientific Integrity Policy.

1503.1071 Contract clause.

Contracting Officers, with advisement from the program office, must insert the contract clause at 1552.203-72—*Scientific Integrity,* in solicitations and contracts when the Contractor may be required to perform, communicate, or supervise scientific activities, or use scientific information to perform advisory and assistance services. Examples of such scientific activities include, but are not limited to, computer modeling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue.