PART 2804—ADMINISTRATIVE MATTERS

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

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Parent topic: SUBCHAPTER A—GENERAL

Subpart 2804.4—Safeguarding Classified Information Within Industry

2804.402 General.

Classified acquisitions or contracts, which require access to classified material, as defined in FAR 4.402, for their performance shall be subject to the policies, procedures, and instructions contained in departmental regulations and shall be processed in a manner consistent with those regulations. Contractors at all tiers are required to comply with all such policies, procedures, and instructions.

2804.402-70 Contractor personnel security program.

It is DOJ policy that all acquisitions which allow unescorted contractor access to Government facilities or sensitive information contain, as appropriate, requirements for appropriate personnel security screening by the contractor. To the maximum extent practicable, contractors shall be made responsible for the performance of personnel security screening. The personnel security screening may vary from one acquisition to another, depending upon the type, context, duration and location of the work to be performed. Classified contracts are exempted from the requirements of this section because they are governed by the requirements of Executive Order 12829 (January 6, 1993).

Subpart 2804.9—Taxpayer Identification Number Information

2804.901 Definitions.

Classified contract, as used in this subpart, means a contract whose existence or subject matter has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring protection against unauthorized disclosure for reasons of national security.

Confidential contract, as used in this subpart, means a contract, the reporting of which to the Internal Revenue Service (IRS) as required under 26 U.S.C. 6050M, would interfere with the effective conduct of a confidential law enforcement activity, such as contracts for sites for undercover operations or contracts with informants, or foreign counterintelligence activity.

2804.903 Reporting contract information to IRS.

2804.903-70 Reporting contract information.

(a) Pursuant to FAR 4.903, the HCA or designee shall certify to the SPE, in the format specified in this section, that such official has examined the information submitted by that bureau as its Federal Procurement Data System (FPDS) data, that the data has been prepared pursuant to the requirements of 26 U.S.C. 6050M, and that, to the best of such official's knowledge and belief, it is compiled from bureau records maintained in the normal course of business for the purpose of making a true, correct, and complete return as required by 26 U.S.C. 6050M.

(b) The following certification will be signed and dated by the HCA or designee and submitted with each bureau's annual FPDS report.

Certification

I,_____(Name),_____(Title) have examined the information to be submitted by_____(Bureau) to the DOJ Senior Procurement Executive, for making information returns on behalf of the Department of Justice to the Internal Revenue Service, and certify that this information has been prepared pursuant to the requirements of 26 U.S.C. 6050M and that, to the best of my knowledge and belief, it is a compilation of bureau records maintained in the normal course of business for the purpose of providing true, correct, and complete returns as required by 26 U.S.C. 6050M.
Signature _____ Date _____

(c) The SPE will certify the consolidated FPDS data for the Department, transmit the data to the Federal Procurement Data Center (FPDC), and authorize the FPDC to make returns to the IRS on behalf of the agency.

2804.903-71 Special reporting exceptions.

(a) The Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, amended 26 U.S.C. 6050M to allow exceptions to the reporting requirements for certain classified or confidential

contracts.

(b) The head of the agency has determined that the filing of information returns, as required by 26 U.S.C. 6050M, on confidential contracts, which involve law enforcement or foreign counterintelligence activities, would interfere with the effective conduct of those confidential law enforcement or foreign counterintelligence activities, and that the special reporting exceptions added to 26 U.S.C. 6050M by the Technical and Miscellaneous Revenue Act of 1988 apply to these types of contracts.