PART 1203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Authority: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

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Parent topic: SUBCHAPTER A—GENERAL

Subpart 1203.1—Safeguards

1203.101-3 Agency regulations.

(a) Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and the Supplemental Standards of Ethical Conduct for Employees of the Department of Transportation, 5

CFR part 6001, apply to all DOT employees.

Subpart 1203.2—Contractor Gratuities to Government Personnel

1203.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations of the Gratuities clause shall be reported to the contracting officer responsible for the acquisition (or the Chief of the Contracting Office (COCO) if the contracting officer is suspected of the violation). The contracting officer (or COCO) shall obtain from the person reporting the violation, and any witnesses to the violation, the following information—

(1) The date, time, and place of the suspected violation;

(2) The name and title (if known) of the individual(s) involved in the violation; and

(3) The details of the violation (*e.g.,* the gratuity offered or intended) to obtain a contract or favorable treatment under a contract.

(b) The person reporting the violation and witnesses (if any) should be requested to sign and date the information certifying that the information furnished is true and correct. The COCO shall report suspected violations to the Office of the Inspector General (OIG), 1200 New Jersey Avenue SE, Washington, DC 20590, with a copy to General Counsel and the OA's Chief Counsel.

1203.204 Treatment of violations.

(a) The HCA is authorized to determine whether a Gratuities clause violation has occurred. If the HCA has been personally and substantially involved in the procurement, DOT legal counsel advice should be sought to determine if a substitute for the HCA should be designated.

(b) The COCO shall ensure that the contractor is afforded the hearing procedures required by FAR 3.204(b). Government legal counsel should be consulted regarding the appropriateness of the hearing procedures.

(c) If the HCA determines that the alleged gratuities violation occurred during the “conduct of an agency procurement”, the COCO shall consult with DOT legal counsel regarding the approach for appropriate processing of either the Procurement Integrity Act violation and/or the Gratuities violation.

Subpart 1203.3—Reports of Suspected Antitrust Violations

1203.301 General.

(b) The same procedures contained in 1203.203 shall be followed for suspected antitrust violations, except reports of suspected antitrust violations shall be coordinated with DOT legal counsel for

referral to the Department of Justice, if deemed appropriate.

1203.303 Reporting suspected antitrust violations.

(b) The same procedures contained in 1203.203 shall be followed for suspected antitrust violations, except reports of suspected antitrust violations shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

Subpart 1203.4—Contingent Fees

1203.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) The same procedures contained in 1203.203 shall be followed for reporting the attempted or actual exercise of improper influence, misrepresentation of a contingent fee arrangement, or other violation of the Covenant Against Contingent Fees (*see* FAR 52.203–5), except reports of misrepresentation or violations of the Covenant Against Contingent Fees shall be coordinated with DOT legal counsel for referral to the Department of Justice, if deemed appropriate.

Subpart 1203.5—Other Improper Business Practices

1203.502-2 Subcontractor kickbacks.

(g) The same procedures contained in 1203.203 shall be followed for reporting a violation of 41 U.S.C. chapter 87, Kickbacks.

Subpart 1203.7—Voiding and Rescinding Contracts

1203.703 Authority.

(a) The head of the contracting activity (HCA) is authorized by the Secretary of Transportation to declare void and rescind contracts and other transactions listed in Public Law 87–849 (18 U.S.C. 218), in which there has been a final conviction for bribery, conflict of interest, or any other violation of 18 U.S.C. 201–224.

(b) The Head of the Operating Administration (HOA) is authorized to make determinations, in accordance with FAR 3.703(b)(2).

Subpart 1203.9—Whistleblower Protections for Contractor Employees

1203.906 Remedies.

(a) The HCA is authorized to make determinations and take actions under FAR 3.906(a).

(b) The HCA is authorized to take actions under FAR 3.906(b).