PART 3404—ADMINISTRATIVE AND INFORMATION MATTERS

Authority: 5 U.S.C. 301; 40 U.S.C. 12(c); and 41 U.S.C. 3102.

Source: 88 FR 60542, Sept. 1, 2023, unless otherwise noted.

3404.000 Scope of part.

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Parent topic: SUBCHAPTER A—GENERAL

3404.000 Scope of part.

3404.001 Definitions.

Federal record, as defined in 44 U.S.C. 3301, includes all recorded information, regardless of form or characteristics, made or received by the Department under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by the Department or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the U.S. Government or because of the informational value of data in them.

Records inventory means a descriptive listing of each Federal record series or system that a contractor creates, receives, or maintains in performance of the contract, together with an indication of its location, retention, custodian, volume, and other pertinent data.

Subpart 3404.4—Safeguarding Classified Information Within Industry

3404.470 Contractor security vetting requirements.

3404.470-1 Contract clause.

The contracting officer must include the clause at 3452.204–71 (Contractor security vetting requirements) in solicitations and contracts when it is anticipated that contractor employees will have access to proprietary or sensitive Department information including *Controlled Unclassified Information* as defined in 32 CFR 2002.4(h), Department Information Technology (IT) systems, contractor systems operated with Department data or interfacing with Department systems, Department facilities/space, and/or perform duties in a school or in a location where children are present.

Subpart 3404.7—Contractor Records Retention

3404.710 Contracting officer records management responsibilities.

Upon notification from the contractor of any unlawful or accidental removal, defacing, alteration, or destruction of Federal records, including all forms of mutilation, the contracting officer must notify the requiring activity, the Department Records Officer, and the HCA within one business day.

3404.770 Contract clause.

The contracting officer must insert the clause at 3452.204–70 (Records management) in all solicitations and contracts where the contractor will receive, create, work with, or otherwise handle Federal records, as defined in 44 U.S.C. 3301(a), regardless of the medium in which the record exists.

Subpart 3404.8—Government Contact Files

3404.804 Closeout of contract files.

3404.804-5 Procedures for closing out contract files.

(a)(16) The contractor has provided written affirmation that the contractor has transferred all Federal records that the contractor created, received, or maintained in performance of the contract to the Federal Government, and the contractor has not retained a copy of any Federal record that contains information covered by 32 CFR part 2002 or that is generally protected from public disclosure by an exemption under the Freedom of Information Act (FOIA) with the exception, for the

purposes of FOIA, of information that exclusively implicates the exemption 4 interests of the contractor.