

SUBPART 203.5—OTHER IMPROPER BUSINESS PRACTICES

203.502 Subcontractor kickbacks.

Report suspected violations of the Anti-Kickback Act in accordance with 209.406-3 and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

203.502-2 General.

(h) The DoD Inspector General has designated Special Agents of the following investigative organizations as representatives for conducting inspections and audits under the Anti-Kickback Act of 1986:

- (i) U.S. Army Criminal Investigation Command.
- (ii) Naval Criminal Investigative Service.
- (iii) Air Force Office of Special Investigations.
- (iv) Defense Criminal Investigative Service.

203.570 Employment prohibitions on persons convicted of fraud or other DoD contract-related felonies.

203.570-1 Scope.

This subpart prescribes policies and procedures to implement 10 U.S.C. 2408.

203.570-2 Policy.

(a) Contractors or subcontractors shall not knowingly allow a person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD, to serve—

- (1) In a management or supervisory capacity on any DoD contract or first-tier subcontract; or,
- (2) On its board of directors; or
- (3) As a consultant, agent, or representative.

(b) The period covered by the prohibition in paragraph (a) of this subsection is for five years from the date of conviction unless waived in the interest of national security by the agency head or designee.

203.570-3 Waiver.

- (a) The contracting officer shall—
 - (1) Review any request for waiver; and

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(2) Deny the request if the contracting officer decides the waiver is not required in the interests of national security; or

(3) Forward the request to the head of the agency or designee for approval if the contracting officer decides the waiver may be in the interest of national security.

(b) The head of the agency or designee shall report all waivers granted, and the reasons for granting the waiver, to the Under Secretary of Defense (Acquisition & Technology), who will forward the report to Congress as required by 10 U.S.C. 2408(a)(3).

203.570-4 Reporting.

When a defense contractor or first-tier subcontractor is found in violation of the prohibition in 203.570-2, the contracting officer shall report the matter in accordance with 209.406-3 and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

203.570-5 Contract clause.

Use the clause at 252.203-7001, Special Prohibition on Employment, in all solicitations and contracts exceeding the simplified acquisition threshold, except solicitations and contracts for commercial items.