

## Department of Energy

903.104-7

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AUTHORITY: 42 U.S.C. 7101 et seq. and 50 U.S.C. 2401 et seq.

SOURCE: 49 FR 11940, Mar. 28, 1984, unless otherwise noted.

## Subpart 903.1—Safeguards

### 903.101 Standards of conduct.

#### 903.101-3 Agency regulations.

Detailed rules applicable to the conduct of DOE employees are set forth in 10 CFR part 1010.

[49 FR 11940, Mar. 28, 1984, as amended at 60 FR 47307, Sept. 12, 1995]

#### 903.104-1 Definitions.

As used in this section and for the purposes of the post-employment restrictions at 48 CFR 3.104-2(b)(3)—

*Deputy program manager* means the individual within DOE who normally acts as the program manager in the absence of the program manager, and does not mean an individual who occa-

sionally acts for the program manager or the deputy program manager.

*Program manager* means the individual within DOE who:

(1) Exercises authority on a day-to-day basis to manage an acquisition program—

(i) For a system attained through the acquisition process; and

(ii) With one or more contracts, at least one of which has a value exceeding \$10,000,000; and

(2) Is generally the person at the lowest organizational level who has authority to make technical and budgetary decisions on behalf of DOE.

*System* means a combination of elements that function together to produce the capabilities required to fulfill a mission need, including, but not limited to hardware, equipment, software, or any combination thereof.

[63 FR 56851, Oct. 23, 1998. Redesignated and amended at 74 FR 36361, July 22, 2009]

### 903.104-7 Violations or possible violations.

(a) Except for Headquarters activities, the individual within DOE responsible for fulfilling the requirements of 48 CFR 3.104-7(a) (1) and (2), relative to contracting officer conclusions on the impact of a violation or possible violation of subsections 27 (a), (b), (c) or (d) of the Office of Federal Procurement Policy Act, shall be the legal counsel assigned direct responsibility for providing legal advice to the contracting office making the award or selecting the source. The legal counsel is the Chief Counsel for the Operations Offices or the Federal Energy Technology Center; the Counsel, or the Chief Counsel, for the Support Offices or the Naval Reactors Offices; the General Counsel for National Nuclear Security Administration (NNSA), and the General Counsel for the Power Administrations. For Headquarters activities, the individual designated to perform the responsibilities in 48 CFR 3.104-7(a) (1) and (2) regarding questions of disclosure of proprietary or source selection information is the Assistant General Counsel for Procurement and Financial Assistance. The designated individual for other questions regarding 48 CFR 3.104-7(a) (1) and (2) for Headquarters

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activities is the Agency Ethics Official (Designated Agency Ethics Official).

[62 FR 53756, Oct. 16, 1997. Redesignated and amended at 74 FR 36361, July 22, 2009]

### **Subpart 903.2—Contractor Gratuities to Government Personnel**

#### **903.203 Reporting suspected violations of the Gratuities clause.**

(a) Suspected violations of the Gratuities clause shall be reported to the Head of the Contracting Activity (HCA) in writing detailing the circumstances. The HCA will evaluate the report and, if the report appears to substantiate the allegations, the matter will be referred to the Senior Procurement Executive for disposition.

[49 FR 11940, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994; 74 FR 36378, July 22, 2009]

#### **903.204 Treatment of violations.**

Apparent violations will be processed in accordance with the debarment and suspension rules set forth at Title 10, part 1035, of the Code of Federal Regulations.

### **Subpart 903.3—Reports of Suspected Antitrust Violations**

#### **903.303 Reporting suspected antitrust violations.**

(a) Potential anti-competitive practices, such as described in FAR 3.301, and antitrust law violations as described in FAR 3.303, evidenced in bids or proposals, shall be reported to the Office of General Counsel through the Head of the Contracting Activity with a copy to the Procurement Executive. The Office of General Counsel will provide reports to the Attorney General, as appropriate.

[50 FR 12183, Mar. 27, 1985, as amended at 59 FR 9104, Feb. 25, 1994]

### **Subpart 903.4—Contingent Fees**

#### **903.405 Misrepresentations or violations of the Covenant Against Contingent Fees.**

(b) Each Standard Form 119 completed in connection with a DOE con-

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tract, together with other relevant information, shall be reviewed by Counsel prior to the initiation of appropriate action.

[49 FR 11940, Mar. 28, 1984. Redesignated and amended at 74 FR 36361, July 22, 2009]

### **Subpart 903.5—Other Improper Business Practices**

#### **903.502 Subcontractor kickbacks.**

Contracting officers shall report suspected violations of the Anti-Kickback Act through the Head of the Contracting Activity, or designee, to the Office of General Counsel.

[49 FR 11940, Mar. 28, 1984, as amended at 74 FR 36361, July 22, 2009]

### **Subpart 903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them**

#### **903.603 Responsibilities of the contracting officer.**

(a) When the needs of the Government cannot be reasonably supplied by sources other than employees of the Government or sources which are substantially owned or controlled by Government employees, the contracting officer, in accordance with FAR 48 CFR 3.602, may submit, through the HCA, a request to the Senior Procurement Executive, with appropriate justification, for approval of an exception to the prohibitions contained in FAR 3.601.

[49 FR 11940, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994; 74 FR 36378, July 22, 2009]

### **Subpart 903.9—Whistleblower Protections for Contractor Employees**

SOURCE: 65 FR 81005, Dec. 22, 2000, unless otherwise noted.

#### **903.900 Scope of subpart.**

This subpart implements the DOE Contractor Employee Protection Program as set forth at 10 CFR part 708. Part 708 establishes criteria and procedures for the investigation, hearing, and review of allegations from DOE