(2) Conviction of fraud or any other felony means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of nolo contendere, for which sentence has been imposed.

(3) Date of conviction means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving—

(1) In a management or supervisory capacity on this contract;
(2) On the board of directors of the Contractor;
(3) As a consultant, agent, or representative for the Contractor; or
(4) In any other capacity with the authority to influence, advise, or control the decisions of the Contractor with regard to this contract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C. 2408 provides that the Contractor shall be subject to a criminal penalty of not more than $500,000 if convicted of knowingly—

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or
(2) Allowing such a person to serve on the board of directors of the contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as—

(1) Suspension or debarment;
(2) Cancellation of the contract at no cost to the Government; or
(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify—

(1) The person involved;
(2) The nature of the conviction and resultant sentence or punishment imposed;
(3) The reasons for the requested waiver; and
(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (301) 937-1542; www.ojp.usdoj.gov/BJA/grant/DPFC.html.

(End of clause)


252.203–7002 Requirement to Inform Employees of Whistleblower Rights.

As prescribed in 203.970, use the following clause:

REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (JAN 2009)

The Contractor shall inform its employees in writing of employee whistleblower rights and protections under 10 U.S.C. 2409, as described in Subpart 203.9 of the Defense Federal Acquisition Regulation Supplement.

(End of clause)

[74 FR 2411, Jan. 15, 2009]


AGENCY OFFICE OF THE INSPECTOR GENERAL (APR 2012)

The agency office of the Inspector General referenced in paragraphs (c) and (d) of FAR clause 52.203–13, Contractor Code of Business Ethics and Conduct, is the DoD Office of Inspector General at the following address:

Department of Defense Office of Inspector General, Investigative Policy and Oversight, 4800 Mark Center Drive, Suite 11H25, Alexandria, VA 22350–1500, For FedEx or UPS packages, use this zip code: 22311, Toll Free Telephone: (866) 429–8011.

(End of clause)


252.203–7004 Display of fraud hotline poster(s).

As prescribed in 203.1004(b)(2)(ii), use the following clause:

Display of Fraud Hotline Poster(s) (SEP 2011)

(a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s).
(1) The Contractor shall display prominently in common work areas within business segments performing work in the United States under Department of Defense (DoD) contracts DoD fraud hotline posters prepared by the DoD Office of the Inspector General. DoD fraud hotline posters may be obtained from the DoD Inspector General, Attn: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202-2884.

(2) If the contract is funded, in whole or in part, by Department of Homeland Security (DHS) disaster relief funds, the DHS fraud hotline poster shall be displayed in addition to the DoD fraud hotline poster. If a display of a DHS fraud hotline poster is required, the Contractor may obtain such poster from:

[Contracting Officer shall insert the appropriate DHS contact information or website.]

(3) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that exceed $5 million except when the subcontract—

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

(End of clause)

[76 FR 57674, Sept. 16, 2011]

252.203–7005 Representation Relating to Compensation of Former DoD Officials.

As prescribed in 203.171–4(b), insert the following provision:

REPRESENTATION RELATING TO COMPENSATION OF FORMER DoD OFFICIALS (NOV 2011)

(a) Definition. Covered DoD official is defined in the clause at 252.203–7000, Requirements Relating to Compensation of Former DoD Officials.

(b) By submission of this offer, the offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the offeror, and who are expected to undertake activities on behalf of the offeror for any resulting contract, are presently in compliance with all post-employment restrictions covered by 18 U.S.C. 207, 41 U.S.C. 2101-2107, and 5 CFR parts 2637 and 2641, including Federal Acquisition Regulation 3.104-2.

[76 FR 71830, Nov. 18, 2011]