Federal Acquisition Regulation

memberships, or serving as an expert witness in litigation;
(iii) Services provided in exchange for honorariums or travel expense reimbursements;
(iv) Research funding or other forms of research support;
(v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
(vi) Real estate investments;
(vii) Patents, copyrights, and other intellectual property interests; or
(viii) Business ownership and investment interests.

3.1102 Policy.

The Government’s policy is to require contractors to—
(a) Identify and prevent personal conflicts of interest of their covered employees; and
(b) Prohibit covered employees who have access to non-public information by reason of performance on a Government contract from using such information for personal gain.

3.1103 Procedures.

(a) By use of the contract clause at 52.203–16, as prescribed at 3.1106, the contracting officer shall require each contractor whose employees perform acquisition functions closely associated with inherently Government functions to—
(1) Have procedures in place to screen covered employees for potential personal conflicts of interest by—
(i) Obtaining and maintaining from each covered employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:
(A) Financial interests of the covered employee, of close family members, or of other members of the covered employee’s household.
(B) Other employment or financial relationships of the covered employee (including seeking or negotiating for prospective employment or business).
(C) Gifts, including travel; and
(ii) Requiring each covered employee to update the disclosure statement whenever the employee’s personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the covered employee is performing.
(2) For each covered employee—
(i) Prevent personal conflicts of interest, including not assigning or allowing a covered employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency:
(ii) Prohibit use of non-public information accessed through performance of a Government contract for personal gain; and
(iii) Obtain a signed non-disclosure agreement to prohibit disclosure of non-public information accessed through performance of a Government contract.
(b) If a contractor reports a personal conflict-of-interest violation by a covered employee to the contracting officer in accordance with paragraph (b)(6) of the clause at 52.203–16, Preventing Personal Conflicts of Interest, the contracting officer shall—
(1) Review the actions taken by the contractor;
(2) Determine whether any action taken by the contractor has resolved the violation satisfactorily; and
(3) If the contracting officer determines that the contractor has not resolved the violation satisfactorily, take any appropriate action in consultation with agency legal counsel.

3.1104 Mitigation or waiver.

(a) In exceptional circumstances, if the contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of the clause at 52.203–16, Preventing Personal Conflicts of Interest, the contractor may submit a request, through the contracting officer, for the head of the contracting activity to—
(1) Agree to a plan to mitigate the personal conflict of interest; or
(2) Waive the requirement to prevent personal conflicts of interest.

(b) If the head of the contracting activity determines in writing that such action is in the best interest of the Government, the head of the contracting activity may impose conditions that provide mitigation of a personal conflict of interest or grant a waiver.

(c) This authority shall not be redelegated.

3.1105 Violations.

If the contracting officer suspects violation by the contractor of a requirement of paragraph (b), (c)(3), or (d) of the clause at 52.203–16, Preventing Personal Conflicts of Interest, the contracting officer shall contact the agency legal counsel for advice and/or recommendations on a course of action.

3.1106 Contract clause.

(a) Insert the clause at 52.203–16, Preventing Personal Conflicts of Interest, in solicitations and contracts that—
(1) Exceed the simplified acquisition threshold; and
(2) Include a requirement for services by contractor employee(s) that involve performance of acquisition functions closely associated with inherently governmental functions.

(b) If only a portion of a contract is for the performance of acquisition functions closely associated with inherently governmental functions, then the contracting officer shall still insert the clause, but shall limit applicability of the clause to that portion of the contract that is for the performance of such services.

(c) Do not insert the clause in solicitations or contracts with a self-employed individual if the acquisition functions closely associated with inherently governmental functions are to be performed entirely by the self-employed individual, rather than an employee of the contractor.

PART 4—ADMINISTRATIVE MATTERS

Sec. 4.000 Scope of part.
4.001 Definitions.

Subpart 4.1—Contract Execution
4.101 Contracting officer’s signature.
4.102 Contractor’s signature.
4.103 Contract clause.

Subpart 4.2—Contract Distribution
4.201 Procedures.
4.202 Agency distribution requirements.
4.203 Taxpayer identification information.

Subpart 4.3—Paper Documents
4.300 Scope of subpart.
4.301 Definition.
4.302 Policy.
4.303 Contract clause.

Subpart 4.4—Safeguarding Classified Information Within Industry
4.401 [Reserved]
4.402 General.
4.403 Responsibilities of contracting officers.
4.404 Contract clause.

Subpart 4.5—Electronic Commerce in Contracting
4.500 Scope of subpart.
4.501 [Reserved]
4.502 Policy.

Subpart 4.6—Contract Reporting
4.600 Scope of subpart.
4.601 Definitions.
4.602 General.
4.603 Policy.
4.604 Responsibilities.
4.605 Procedures.