

## Department of Justice

2803.104–10

### Subpart 2802.1—Definitions

#### 2802.101 Definitions.

Throughout this chapter, the following words and terms are used as defined in this subpart unless the context in which they appear clearly requires a different meaning, or a different definition is prescribed for a particular part or portion of a part.

(a) *Bureaus* means contracting activities. (See *contracting activity* in this subpart.)

(b) *Bureau procurement chief* means that supervisory official who is directly responsible for supervising, managing and directing all contracting offices of the bureau.

(c) *Chief of the contracting office* means that supervisory official who is directly responsible for supervising, managing and directing a contracting office.

(d) *Contracting activity* means a component within the Department which has been delegated procurement authority to manage contracting functions associated with its mission. See 2801.601(a).

(e) *DOJ* means the Department of Justice.

(f) *HCA* means head of the contracting activity i.e. those officials identified in 2801.601(a) having responsibility for supervising, managing, and directing the operations of the contracting activities.

(g) *JAR* means the Department of Justice Acquisition Regulations in 48 CFR chapter 28.

(h) *JMD* means the Justice Management Division.

(i) *OBDs* means the offices, boards, and divisions within the Justice Department.

(j) *PE* means the Procurement Executive for the Department of Justice.

[63 FR 16121, Apr. 2, 1998]

## PART 2803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16121, Apr. 2, 1998, unless otherwise noted.

### Subpart 2803.1—Safeguards

#### 2803.101–3 Agency regulations.

The DOJ regulations governing Standards of Conduct are contained in 5 CFR part 2635.

#### 2803.104 Procurement integrity.

#### 2803.104–10 Violations or possible violations.

(a) Upon receipt of information of a violation or possible violation of section 27 of the Act, the contracting officer must do the following:

(1) Refer the matter to the Office of the Inspector General or other office designated in Attorney General Order 1931–94; and

(2) Make the determination required by FAR 3.104–10(a) and follow the procedures prescribed therein.

(b) The individual referenced in FAR 3.104–10(a)(1) is the Bureau Procurement Chief.

(c) The HCA must follow the criteria contained in FAR 3.104–10(g) when designating authority under this subpart.

(d) The HCA, or designee, shall refer information regarding actual or possible violations of section 27 of the Act to the Office of the Inspector General or other office designated in Attorney General Order 1931–94 for guidance before taking action.

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(e) If the HCA, or designee, receiving the information of a violation, or possible violation, determines that award is justified by urgent and compelling circumstances, or is otherwise in the interest of the Government, then the contracting officer may be authorized to award the contract after notification to the Office of the Inspector General or other office designated in Attorney General Order 1931-94.

(f) The contracting officer will be advised, or directed by the HCA, or designee, as to the action to be taken. The types of actions that would normally be taken when a violation has occurred that affected the outcome of a procurement are listed in FAR 3.104-11(d).

(g) The PE shall be advised of all instances where violations have been determined to have occurred. Information must describe the violation as well as actions taken.

### **2803.104-70 Ethics program training requirements.**

It is the responsibility of the bureaus to provide training for "procurement officials" concerning the requirements of FAR 3.104. The bureau procurement training efforts should be coordinated with the Department's Ethics Official, who is responsible for developing agency ethics training plans, to include briefings on ethics and standards of conduct for employees who are contracting officers and procurement officials. The Ethics Official should be contacted directly to schedule training.

## **Subpart 2803.2—Contractor Gratuities to Government Personnel**

### **2803.203 Reporting suspected violations of the gratuities clause.**

DOJ personnel shall report suspected violations of the gratuities clause to the contracting officer or chief of the contracting office in writing. The report shall clearly state the circumstances surrounding the incident, including the nature of the gratuity, the behavior or action the gratuity was to influence, and the persons involved. The contracting officer, after review, shall forward the report along with his or her recommendations regarding the

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treatment of the violation in accordance with FAR 3.204(c) to the HCA or designee.

### **2803.204 Treatment of violations.**

(a) The HCA or designee shall determine whether adverse action against the contractor in accordance with FAR 3.204(c) should be taken. In reaching a decision, the HCA or designee shall consult with the contracting activity's legal advisor and the Office of the Inspector General or other office designated in Attorney General Order 1931-94.

(b) Prior to taking any action against the contractor the HCA or designee shall allow the contractor the opportunity to present opposing arguments in accordance with FAR 3.204(b).

(c) The PE shall be advised of all instances where violations have been determined to have occurred. Information must describe the violation as well as actions taken.

## **Subpart 2803.3—Reports of Suspected Antitrust Violations**

### **2803.301 General.**

Reports of suspected antitrust violations shall be referred to the AG and PE in accordance with bureau procedures.

## **Subpart 2803.9—Whistleblower Protections for Contractor Employees**

### **2803.905 Procedures for investigating complaints.**

(a) The Inspector General shall conduct an investigation and provide a written report of findings to the HCA.

(b) The HCA will ensure that the Inspector General provides the report of finding as specified in FAR 3.905(c).

(c) The complainant and contractor shall be afforded the opportunity to submit a written response to the report of findings within 30 days to the HCA. Extensions of time to file a written response may be granted by the HCA.

(d) The HCA may at any time request additional investigative work be done on the complaint.

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### 2803.906 Remedies.

(a) Upon determination that a contractor has subjected one of its employees to a reprisal for providing information, the HCA may take one or more actions specified in FAR 3.906(a).

(b) Whenever a contractor fails to comply with an order, the HCA shall request an action be filed for enforcement of such order in the United States district court.

## PART 2804—ADMINISTRATIVE MATTERS

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### Subpart 2804.9—Information Reporting to the Internal Revenue Service

2804.901 Definitions.

2804.902 Contract information.

2804.970 Special reporting exceptions.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16122, Apr. 2, 1998, unless otherwise noted.

### Subpart 2804.4—Safeguarding Classified Information Within Industry

#### 2804.402 General.

Classified acquisitions or contracts which require access to classified material, as defined in FAR 4.401, for their performance shall be subject to the

policies, procedures, and instructions contained in departmental regulations and shall be processed in a manner consistent with those regulations.

#### 2804.403 Responsibilities of contracting officers.

For proposed solicitations and contracts which may require access to classified material or where guard services are assigned to safeguard departmental activities in possession of classified information, the contracting officer shall consult with the COTR and the Director, Security and Emergency Planning Staff, JMD, to determine the appropriate security measures to safeguard such material and information.

#### 2804.470 Contractor Personnel Security Program.

##### 2804.470-1 Policy.

It is the policy of the Department of Justice that all acquisitions which allow unescorted contractor access to Government facilities or sensitive information contain, as appropriate, requirements for appropriate personnel security screening by the contractor. To the maximum extent practicable, contractors shall be made responsible for the performance of personnel security screening. The personnel security screening may vary from one acquisition to another, depending upon the type, context, duration and location of the work to be performed. Classified contracts are exempted from the requirements of this section because they are governed by the requirements of Executive Order 12829 (January 6, 1993).

##### 2804.470-2 Responsibilities.

(a) The primary acquiring component, together with its Security Program Manager, is responsible for providing the contracting officer with the appropriate contractor personnel security screening requirements (including waiver requirements, if appropriate) to be included in the statement of work.

(b) The contracting officer is responsible for including in the contract file for all such acquisitions, a certification made by the responsible Security Program Manager that the personnel security requirements of the