

## Department of State

## 603.104-4

the European Logistical Support Office in Antwerp, Belgium.

*Government* means the Government of the United States of America unless specifically stated otherwise.

*Major system* has the same definition as described in FAR 2.101; however, the Department of State's dollar threshold as defined in paragraph (2) is \$30 million. The Under Secretary for Management is the head of the agency for the purposes of paragraph (3).

*Overseas post* means a "post" located outside the United States of America.

*Post* means a diplomatic or consular mission of the United States of America, administered or managed by the DOS.

[53 FR 26163, July 11, 1988, as amended at 59 FR 66753, Dec. 28, 1994; 60 FR 39662, Aug. 3, 1995; 64 FR 43620, Aug. 11, 1999; 69 FR 19330, Apr. 13, 2004; 72 FR 45695, Aug. 15, 2007]

## PART 603—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

### Subpart 603.1—Safeguards

Sec.

603.104 Procurement integrity.

603.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

603.104-7 Violations or possible violations.

### Subpart 603.2—Contractor Gratuities to Government Personnel

603.204 Treatment of violations.

### Subpart 603.4—Contingent Fees

603.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

### Subpart 603.6—Contracts with Government Employees or Organizations Owned or Controlled by Them

603.601 Policy.

603.602 Exceptions.

### Subpart 603.7—Voiding and Rescinding Contracts

603.704 Policy.

603.705 Procedures.

### Subpart 603.8—Limitations on the Payment of Funds To Influence Federal Transactions

603.804 Policy

### Subpart 603.9—Whistleblower Protections for Contractor Employees

603.905 Procedures for investigating complaints.

603.906 Remedies.

AUTHORITY: 22 U.S.C. 2651a, 40 U.S.C. 121(c) and 48 CFR chapter 1.

SOURCE: 53 FR 26163, July 11, 1988, unless otherwise noted.

### Subpart 603.1—Safeguards

SOURCE: 64 FR 43620, Aug. 11, 1999, unless otherwise noted.

#### 603.104 Procurement integrity.

#### 603.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a) The following classes of persons may be authorized to receive contractor bid or proposal information or source selection information by the contracting officer or head of the contracting activity, when such access is necessary to the conduct of an acquisition:

(1) Individuals involved in the selection process, such as the Contracting Officer's Representative, technical evaluators, advisors, consultants, and the Source Selection Official;

(2) Clerical personnel directly involved in the acquisition;

(3) Supervisors in the contracting officer's chain of command;

(4) Contracting personnel involved in reviewing or approving the solicitation, contract, or contract modification;

(5) Individuals from offices who may be required to perform pre-award audits, such as DCAA; and,

(6) Personnel in the following offices: Office of Small and Disadvantaged Business Utilization (OSDBU), Office of the Legal Adviser, Office of Legislative Affairs, Office of the Inspector General, Office of the Procurement Executive, the Small Business Administration, and the Office of Federal Contract Compliance Programs (Department of Labor).

(c) All information which is considered proprietary or source selection information shall be marked to prevent its unauthorized disclosure before

award. This may be performed by marking each page of proprietary or source selection material with the statement “Source Selection Information—See FAR 3.104” or “Proprietary Information—See FAR 3.104”, as applicable. Alternatively, this requirement may be met by attaching Forms DS-1926, Proprietary Information (Cover Page), and DS-1927, Source Selection Information (Cover Page), to any proprietary and source selection information. Individuals responsible for preparing derivative documents which reference, cite, or paraphrase proprietary or source selection information, are responsible for marking such documents as indicated in this paragraph. The required marking or cover page shall be included when technical proposals are submitted for evaluation and when an audit is requested. After award, the procedures governing the Freedom of Information Act and related laws/regulations shall be followed regarding release of proprietary or source selection information.

[64 FR 43620, Aug. 11, 1999. Redesignated at 69 FR 19330, Apr. 13, 2004; 80 FR 6915, Feb. 9, 2015]

#### **603.104-7 Violations or possible violations.**

(a)(1) The contracting officer shall report any violation or possible violation to the head of the contracting activity after he or she has reviewed the documentation and has concluded that there is no impact on the acquisition.

(d)(2)(ii)(B) The Procurement Executive is the agency head’s designee for the purposes of FAR 3.104-7(d)(2)(ii)(B).

[64 FR 43620, Aug. 11, 1999. Redesignated and amended at 69 FR 19330, Apr. 13, 2004]

#### **Subpart 603.2—Contractor Gratuities to Government Personnel**

##### **603.204 Treatment of violations.**

(a) The Procurement Executive is the agency head’s designee for the purposes of FAR 3.204.

(b) Upon completion of the investigation and/or prosecution or with the consent of the U.S. Department of Justice, the Assistant Inspector General for Investigations shall provide to the

Procurement Executive a report, together with all pertinent documentation, concerning the suspected violation. The Office of the Procurement Executive shall provide to the contractor a written notice by certified mail, return receipt requested, presenting the findings, and shall establish a schedule, including location, for an investigative hearing for the purposes described in FAR 3.204(b).

[64 FR 43620, Aug. 11, 1999, as amended at 69 FR 19330, Apr. 13, 2004]

#### **Subpart 603.4—Contingent Fees**

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

(a) The contracting officer may request the Office of the Inspector General to develop further information if the facts available are deemed insufficient to determine whether an actual violation has occurred. The contracting officer may also obtain the advice of the Office of the Legal Adviser as to the legality and general propriety of any information disclosed.

[64 FR 43621, Aug. 11, 1999]

#### **Subpart 603.6—Contracts with Government Employees or Organizations Owned or Controlled by Them**

##### **603.601 Policy.**

(a) It is Department policy not to award contracts to Federal employees, or businesses substantially owned or controlled by Federal employees. This policy also applies to individuals hired under personal services agreements and personal services contracts.

[59 FR 66754, Dec. 28, 1994, as amended at 69 FR 19331, Apr. 13, 2004]

##### **603.602 Exceptions.**

The Procurement Executive is the agency head’s designee for the purposes of FAR 3.602.