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unique procurement policies, regulations, and standards of DHS. The DHS Chief Procurement Officer (CPO) is the SPE for DHS and is the only individual within DHS that bears the title of the CPO.

Sensitive Information, as used in this Chapter, means any information which if lost, misused, disclosed, or, without authorization, is accessed or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. 552a (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

(1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Pub. L. 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (6 CFR part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);

(2) Sensitive Security Information (SSI), as defined in 49 CFR part 1520, as amended, “Policies and Procedures of Safeguarding and Control of SSI,” as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);

(3) Information designated as “For Official Use Only,” which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person’s privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and

(4) Any information that is designated “sensitive” or subject to other

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controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.

[68 FR 67871, Dec. 4, 2003, as amended at 71 FR 25767, May 2, 2006; 71 FR 48801, Aug. 22, 2006; 72 FR 1297, Jan. 11, 2007; 73 FR 30318, May 27, 2008; 75 FR 41099, July 15, 2010; 77 FR 50633, Aug. 22, 2012; 86 FR 17314, Apr. 2, 2021; 88 FR 40596, June 21, 2023]

Subpart 3002.2—Abbreviations

3002.270 Abbreviations.

CBCA Civilian Board of Contract Appeals
CFO Chief Financial Officer
CIO Chief Information Officer
COCO Chief of the Contracting Office
COR Contracting Officer’s Representative
CPO Chief Procurement Officer
D&F Determination and Findings
FOIA Freedom of Information Act
HCA Head of the Contracting Activity
J&A Justification and Approval for Other than Full and Open Competition
MD Management Directive
OCPO Office of the Chief Procurement Officer
OIG Office of the Inspector General
OSDBU Office of Small and Disadvantaged Business Utilization
PCR SBA’s Procurement Center Representative
RFP Request for Proposal
SBA Small Business Administration
SBS Small Business Specialist
SPE Senior Procurement Executive

[72 FR 1297, Jan. 11, 2007, as amended at 77 FR 50633, Aug. 22, 2012; 86 FR 17314, Apr. 2, 2021]

PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 3003.1—Safeguards

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AUTHORITY: 5 U.S.C. 301-302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise noted.

Subpart 3003.1—Safeguards

3003.101 Standards of conduct.

3003.101-3 Agency regulations.

The United States Office of Government Ethics has promulgated regulations applicable to the entire Executive Branch that address the conduct matters referenced in (FAR) 48 CFR 3.101-3. See 5 CFR vol. 3, ch. XVI, subch. B. The Department of Homeland Security has also issued a supplemental ethics regulation at 5 CFR part 4601 and Management Directive 0480.1, Ethics/Standards of Conduct.

[77 FR 50633, Aug. 22, 2012, as amended at 86 FR 17314, Apr. 2, 2021]

Subpart 3003.2—Contractor Gratuities to Government Personnel

3003.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations shall be reported to the contracting officer responsible for the acquisition (or the COCO if the contracting officer is sus-

pected of the violation). The contracting officer (or the COCO) shall obtain from the person reporting the violation, and any witnesses to the violation, the following information:

(1) The date, time, and place of the suspected violation;

(2) The name and title (if known) of the individual(s) involved in the violation; and

(3) The details of the violation (e.g., the gratuity offered or intended) to obtain a contract or favorable treatment under a contract.

(4) The person reporting the violation and witnesses (if any) shall be requested to sign and date the information certifying that the information furnished is true and correct.

(b) The contracting officer shall submit the report to the COCO (unless the alleged violation was directly reported to the COCO) and the Head of the Contracting Activity (HCA) for further action. The COCO and HCA will determine, with the advice of the Component legal counsel, whether the case warrants submission to the OIG, or other investigatory organization.

[68 FR 67871, Dec. 4, 2003, as amended at 71 FR 25768, May 2, 2006; 71 FR 48801, Aug. 22, 2006]

3003.204 Treatment of violations.

(a) The HCA is the official designated to make the determination under (FAR) 48 CFR 3.204(a) whether a gratuities violation has occurred. If the HCA has been personally and substantially involved in the specific procurement, the advice of legal counsel should be sought to determine whether the CPO should designate an alternate decision maker.

(b) The HCA shall ensure that the hearing procedures required by (FAR) 48 CFR 3.204(b) are afforded to the contractor. Legal counsel shall be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the HCA determines that the alleged gratuities violation occurred the HCA shall consult with legal counsel regarding appropriate action and notify the Office of Inspector General.

[77 FR 50633, Aug. 22, 2012]

Subpart 3003.3—Reports Of Suspected Antitrust Violations

3003.301 General.

(b) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for suspected antitrust violations, except reports of suspected antitrust violations shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

Subpart 3003.4—Contingent Fees

3003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees.

(b)(4) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees, except reports of misrepresentation or violations of the covenant against contingent fees shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

Subpart 3003.5—Other Improper Business Practices

3003.502 Subcontractor kickbacks.

3003.502–2 Subcontractor kickbacks.

(g) The DHS OIG shall receive the prime contractor or subcontractors written report.

Subpart 3003.9—Whistleblower Protections for Contractor Employees

3003.901 Definitions.

Authorized official of an agency means the Department of Homeland Security's CPO.

Subpart 3003.10—Contractor Code of Business Ethics and Conduct

SOURCE: 77 FR 50633, Aug. 22, 2012, unless otherwise noted.

3003.1003 Requirements.

(a) *Contractor requirements.* Contractors making written disclosures under the clause at (FAR) 48 CFR 52.203–13 must use the electronic Contractor Disclosure Form at <http://www.oig.dhs.gov> or <https://www.oig.dhs.gov/reports/publications/annual/contractor-disclosure>. Contractors making disclosures under contracts which do not contain the clause at (FAR) 48 CFR 52.203–13 are encouraged to also use this electronic form.

[77 FR 50633, Aug. 22, 2012, as amended at 86 FR 17315, Apr. 2, 2021]

3003.1004 Contract clauses.

(a) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.203–70, Instructions for Contractor Disclosure of Violations, in solicitations and contracts containing the clause at (FAR) 48 CFR 52.203–13.

PART 3004—ADMINISTRATIVE MATTERS

Subpart 3004.1—Contract Execution

Sec.

3004.103 Contract clause.

Subpart 3004.4—Safeguarding Classified and Controlled Unclassified Information Within Industry

3004.470 Security requirements for access to unclassified facilities, information resources, and controlled unclassified information.

3004.470–1 Scope.

3004.470–2 Definitions.

3004.470–3 Policy.

3004.470–4 Contract clauses.

Subpart 3004.8—Government Contract Files

3004.804 Closeout of contract files.

3004.804–5 Procedures for closing out contract files.

3004.804–570 Supporting closeout documents.

AUTHORITY: 5 U.S.C. 301–302, 41 U.S.C. 1707, 41 U.S.C. 1702, 41 U.S.C. 1303(a)(2), 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0702.

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise noted.