

§ 7104b. Monitoring and investigation of trafficking in persons

(a) Referral and investigation

(1) Referral

If the contracting or grant officer of an executive agency for a grant, contract, or cooperative agreement receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 7104(g) of this title, as amended by section 1702, including a report from a contracting officer representative, an auditor, an alleged victim or victim's representative, or any other credible source, the contracting or grant officer shall promptly refer the matter to the agency's Office of Inspector General for investigation. The contracting officer may also direct the contractor to take specific steps to abate an alleged violation or enforce the requirements of a compliance plan implemented pursuant to section 7104a of this title.

(2) Investigation

An Inspector General who receives a referral under paragraph (1) or otherwise receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 7104(g) of this title, as amended by section 1702, shall promptly review the referral or information and determine whether to initiate an investigation of the matter. In the event that an Inspector General does not initiate an investigation, the Inspector General shall document the rationale for the decision not to investigate.

(3) Criminal investigation

If the matter is referred to the Department of Justice for criminal prosecution, the Inspector General may suspend any investigation under this subsection pending the outcome of the criminal prosecution. The Inspector General shall notify the head of the executive agency that awarded the contract, grant, or cooperative agreement of an indictment, information, or criminal complaint against the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor. If the criminal investigation results in a decision not to prosecute, the Inspector General shall promptly determine whether to resume any investigation that was suspended pursuant to this paragraph. In the event that an Inspector General does not resume an investigation, the Inspector General shall document the rationale for the decision.

(b) Report

Upon completion of an investigation under subsection (a), the Inspector General shall submit a report on the investigation to the head of the executive agency that awarded the contract, grant, or cooperative agreement. The report

shall include the Inspector General's conclusions regarding whether or not any allegations that the recipient of a grant, contract, or cooperative agreement; any subcontractor or subgrantee of the recipient; or any agent of the recipient or of such a subcontractor or subgrantee, engaged in any of the activities described in section 7104(g) of this title, as amended by section 1702, are substantiated.

(c) Remedial actions

(1) In general

Upon receipt of an Inspector General's report substantiating an allegation that the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor, engaged in any of the activities described in section 7104(g) of this title, as amended by section 1702, or notification of an indictment, information, or criminal complaint for an offense under subsection (a)(3), the head of agency shall refer the matter to the agency suspension and debarment official and consider taking one or more of the following remedial actions:

(A) Requiring the recipient to remove an employee from the performance of work under the grant, contract, or cooperative agreement.

(B) Requiring the recipient to terminate a subcontract or subgrant.

(C) Suspending payments under the grant, contract, or cooperative agreement until such time as the recipient of the grant, contract, or cooperative agreement has taken appropriate remedial action.

(D) Withholding award fees, consistent with the award fee plan, for the performance period in which the agency determined the contractor or subcontractor engaged in any of the activities described in such section 7104(g) of this title.

(E) Declining to exercise available options under the contract.

(F) Terminating the contract for default or cause, in accordance with the termination clause for the contract.

(2) Savings clause

Nothing in this subsection shall be construed as limiting the scope of applicable remedies available to the Federal Government.

(3) Mitigating factor

Where applicable, the head of an executive agency may consider whether the contractor or grantee had a plan in place under section 7104a of this title, and was in compliance with that plan at the time of the violation, as a mitigating factor in determining which remedies, if any, should apply.

(4) Aggravating factor

Where applicable, the head of an executive agency may consider the failure of a contractor or grantee to abate an alleged violation or enforce the requirements of a compliance plan when directed by a contracting officer pursuant to subsection (a)(1) as an aggravating factor in determining which remedies, if any, should apply.

(d) Inclusion of report conclusions in FAPIIS**(1) In general**

The head of an executive agency shall ensure that any substantiated allegation in the report under subsection (b) is included in the Federal Awardee Performance and Integrity Information System (FAPIIS) and that the contractor has an opportunity to respond to any such report in accordance with applicable statutes and regulations.

(2) Omitted

(Pub. L. 112-239, div. A, title XVII, §1704, Jan. 2, 2013, 126 Stat. 2094; Pub. L. 117-211, §2(a), Oct. 17, 2022, 136 Stat. 2248.)

Editorial Notes

REFERENCES IN TEXT

Section 7104(g) of this title, as amended by section 1702, referred to in subsecs. (a)(1), (2), (b), and (c)(1), means section 7104(g) of this title, as amended by section 1702 of Pub. L. 112-239.

CODIFICATION

Section is comprised of section 1704 of Pub. L. 112-239. Subsec. (d)(2) of section 1704 of Pub. L. 112-239 amended section 2313 of Title 41, Public Contracts.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117-211, §2(a)(1), which directed insertion of “refer the matter to the agency suspension and debarment official and” before “consider taking one of the following actions”, was executed in introductory provisions by making the insertion before “consider taking one or more of the following remedial actions” to reflect the probable intent of Congress.

Subsec. (c)(1)(G). Pub. L. 117-211, §2(a)(2), struck out subpar. (G) which read as follows: “Referring the matter to the agency suspension and debarment official.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Requirements of subsec. (c) and second sentence of subsec. (a)(1) of this section applicable to grants, contracts, and cooperative agreements entered into on or after the date that is 270 days after Jan. 2, 2013, and to task and delivery orders awarded on or after Jan. 2, 2013, pursuant to contracts entered before, on, or after such date, see section 7104d(c)(1)(B) of this title.

§ 7104c. Notification to Inspectors General and cooperation with government

The head of an executive agency making or awarding a grant, contract, or cooperative agreement shall require that the recipient of the grant, contract, or cooperative agreement—

(1) immediately inform the Inspector General of the executive agency of any information it receives from any source that alleges credible information that the recipient; any subcontractor or subgrantee of the recipient; or any agent of the recipient or of such a subcontractor or subgrantee, has engaged in conduct described in section 7104(g) of this title, as amended by section 1702 of this Act; and

(2) fully cooperate with any Federal agencies responsible for audits, investigations, or cor-

rective actions relating to trafficking in persons.

(Pub. L. 112-239, div. A, title XVII, §1705, Jan. 2, 2013, 126 Stat. 2097.)

Editorial Notes

REFERENCES IN TEXT

Section 7104(g) of this title, as amended by section 1702 of this Act, referred to in par. (1), means section 7104(g) of this title, as amended by section 1702 of Pub. L. 112-239.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

§ 7104d. Rules of construction; effective date**(a) Liability**

Excluding section 1706, nothing in this title shall be construed to supersede, enlarge, or diminish the common law or statutory liabilities of any grantee, subgrantee, contractor, subcontractor, or other party covered by section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702.

(b) Authority of Department of Justice

Nothing in this title shall be construed as diminishing or otherwise modifying the authority of the Attorney General to investigate activities covered by this title.

(c) Implementation and effective dates**(1) Contracting requirements**

(A) Not later than 270 days after January 2, 2013, the Federal Acquisition Regulation shall be amended to carry out the requirements of sections 1702, 1703, and 1704(c), and the second sentence of section 1704(a)(1), of this title.

(B) The requirements of sections 1702, 1703, and 1704(c), and the second sentence of section 1704(a)(1), of this title, shall apply to grants, contracts, and cooperative agreements entered into on or after the date that is 270 days after January 2, 2013, and to task and delivery orders awarded on or after such date pursuant to contracts entered before, on, or after such date.

(2) Investigative and procedural requirements

Federal agencies shall implement the requirements of sections 1704, 1705, and 1707 (other than subsection (c) of section 1704) not later than 90 days after January 2, 2013.

(3) Criminal law changes

The amendments made by section 1706 shall take effect upon the date of enactment and shall apply to conduct taking place on or after such date.

(Pub. L. 112-239, div. A, title XVII, §1708, Jan. 2, 2013, 126 Stat. 2098.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in text, is title XVII of div. A of Pub. L. 112-239, which enacted this section and sec-