

## Department of Transportation

## 1203.301

(2) When the COCO does not concur with the conclusion of the contracting officer, the COCO shall advise the contracting officer to withhold award, and the COCO shall promptly forward the information and documentation to the HCA.

(3) When the contracting officer determines that the information concerning a violation or possible violation will impact the pending procurement, the contracting officer shall promptly forward the information and documentation to the HCA.

(b) The HCA shall review the information transmitted in accordance with subparagraph (a)(1) through (a)(3) of this section and take appropriate action, as required by (FAR) 48 CFR 3.104–11(b).

(c) If the HCA believes that a violation has occurred and the information should be disclosed to a criminal investigative agency (e.g., the Department of Justice) or that there may be a possible violation, and an investigation should be conducted, the HCA shall obtain guidance from legal counsel and the OIG prior to taking any action. If the HCA, pursuant to (FAR) 48 CFR 3.104–11(f), determines that award is justified by urgent and compelling circumstances, or is otherwise in the interests of the Government, a memorandum of the facts and circumstances shall be signed by the HCA and placed in the contract file.

### Subpart 1203.2—Contractor Gratuities to Government Personnel

#### 1203.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations of the Gratuities clause shall be reported to the contracting officer responsible for the acquisition (or the COCO if the contracting officer is suspected of the violation). The contracting officer (or 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.

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

(c) The COCO shall report suspected violations to the Office of the Inspector General (OIG) (J-1), 400 7th Street, S.W., Washington, DC, 20590, with a copy to General Counsel (C-1) and the OA's Chief Counsel.

#### 1203.204 Treatment of violations.

(a) The authority of the agency head established in (FAR) 48 CFR 3.204(a), to determine whether a gratuities clause violation has occurred, has been delegated to the HCA. If the decision maker pursuant to this delegation has been personally and substantially involved in the procurement, the advice of Government legal counsel should be sought to determine whether an alternate decision maker should be designated.

(b) The COCO shall ensure that the hearing procedures required by FAR 3.204 are afforded to the contractor. Government legal counsel should be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the alleged gratuities violation occurs during the "conduct of an agency procurement" as defined by (FAR) 48 CFR 3.104-4(c)(1), the COCO shall consult with Government legal counsel regarding the approach for appropriate processing of either the Procurement Integrity Act violation and/or the Gratuities violation.

### Subpart 1203.3—Reports of Suspected Antitrust Violations

#### 1203.301 General.

(b) The same procedures contained in (TAR) 48 CFR 1203.203 shall also be followed for suspected antitrust violations, except suspected antitrust violations shall be reported through legal counsel in accordance with (FAR) 48 CFR 3.303.