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48 CFR Ch. 2 (10–1–02 Edition)

Department of the Navy—Assistant Secretary of the Navy (Research, Development and Acquisition);

Department of the Air Force—Assistant Secretary of the Air Force (Acquisition).

The directors of the defense agencies have been delegated authority to act as senior procurement executive for their respective agencies, except for such actions that by terms of statute, or any delegation, must be exercised by the Under Secretary of Defense (Acquisition, Technology, and Logistics).

[56 FR 36287, July 31, 1991]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting section 202.101, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36288, July 31, 1991, unless otherwise noted.

Subpart 203.1—Safeguards

203.103 Independent pricing.

203.103-2 Evaluating the certification.

(b)(3) Report the matter in accordance with 209.406-3 or 209.407-3, and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

[64 FR 62984, Nov. 18, 1999]

203.104 Procurement integrity.

203.104-5 Disclosure of proprietary and source selection information.

(d)(4) For purposes of FAR 3.104-5(d)(4) only, DoD follows the notification procedures in FAR 27.404(h). However, the first sentence in FAR 27.404(h) does not apply to DoD.

[56 FR 36288, July 31, 1991, as amended at 62 FR 2612, Jan. 17, 1997]

203.104-10 Violations or possible violations.

(d)(3) When referring a violation to the agency debarring and suspending official, use the procedures at 209.406-3 or 209.407-3, and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

[64 FR 62984, Nov. 18, 1999; 65 FR 4864, Feb. 1, 2000]

Subpart 203.2—Contractor Gratuities to Government Personnel

203.203 Reporting suspected violations of the Gratuities clause.

Report suspected violations of the Gratuities clause in accordance with

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209.406-3 or 209.407-3, and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

[56 FR 36288, July 31, 1991, as amended at 64 FR 62984, Nov. 18, 1999]

Subpart 203.3—Reports of Suspected Antitrust Violations

203.301 General.

(b) Report suspected antitrust violations in accordance with 209.406-3 or 209.407-3, and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

[56 FR 36288, July 31, 1991, as amended at 64 FR 62984, Nov. 18, 1999]

Subpart 203.4—Contingent Fees

203.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(b) Report suspected fraud or other criminal conduct in accordance with 209.406-3 or 209.407-3, and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

[56 FR 36288, July 31, 1991. Redesignated at 62 FR 34121, June 24, 1997, as amended at 64 FR 62984, Nov. 18, 1999]

Subpart 203.5—Other Improper Business Practices

203.502 Subcontractor kickbacks.

Report suspected violations of the Anti-Kickback Act in accordance with 209.406-3 or 209.407-3, and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

[56 FR 36288, July 31, 1991, as amended at 64 FR 62984, Nov. 18, 1999]

203.502-2 General.

(h) The DoD Inspector General has designated Special Agents of the following investigative organizations as representatives for conducting inspections and audits under the Anti-Kickback Act of 1986:

(i) U.S. Army Criminal Investigation Command.

(ii) Naval Criminal Investigative Service.

(iii) Air Force Office of Special Investigations.

(iv) Defense Criminal Investigative Service.

[56 FR 36288, July 31, 1991, as amended at 60 FR 29497, June 5, 1995]

203.570 Prohibition on persons convicted of frauds or other defense-contract-related felonies.

203.570-1 Scope.

This subpart prescribes policies and procedures to implement 10 U.S.C. 2408.

203.570-2 Policy.

(a) A contractor or subcontractor shall not knowingly allow a person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD, to serve—

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On its board of directors;

(3) As a consultant, agent, or representative; or

(4) In any capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(b) DoD has sole responsibility for determining the period of the prohibition described in paragraph (a) of this subsection. The prohibition period—

(1) Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security; and

(2) May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide a copy of the determination to the Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW, Washington, DC 20531.

[64 FR 14398, Mar. 25, 1999]

203.570-3 Waiver.

(a) The contracting officer shall—

(1) Review any request for waiver; and