

Subpart 302.1—Definitions**302.101 Definitions.**

Chief of the contracting office (CCO) is a mid-level management official in charge of a contracting office who controls and oversees the daily contracting operation of an Operating Division (OPDIV) or major component of an OPDIV. The CCO is subordinate to the head of the contracting activity, and is located at a management level above other contracting personnel, usually as a branch chief or division director.

Head of the agency or agency head, unless otherwise specified, means the head of the Operating Division (OPDIV) for AHRQ, CMS, PSC, CDCP, FDA, HRSA, IHS, NIH, and SAMHSA, or the Assistant Secretary for Administration and Management (ASAM) for the Office of the Secretary (OS).

Head of the Contracting Activity (HCA) is defined in terms of certain organizational positions within the Office of Grants and Acquisition Management (OGAM), Agency for Healthcare Research and Quality (AHRQ), Centers for Medicare & Medicaid Services (CMS), Program Support Center (PSC), Centers for Disease Control and Prevention (CDCP), Food and Drug Administration (FDA), Health Resources and Services Administration (HRSA), Indian Health Service (IHS), National Institutes of Health (NIH), and Substance Abuse and Mental Health Services Administration (SAMHSA), as follows:

OGAM-OS—Director, Office of Acquisition Management
ACF—Director, Division of Acquisition Management
AHRQ—Director, Division of Contracts Management
CMS—Director, Acquisition and Grants Group
PSC—Director, Division of Acquisition Management
CDCP—Director, Procurement and Grants Office
FDA—Director, Office of Acquisitions & Grant Services
HRSA—Director, Division of Grants and Procurement Management
IHS—Director, Division of Acquisitions and Grants Management
NIH—Director, Office of Acquisition Management and Policy
SAMHSA—Director, Division of Contracts Management

In addition, the Director, Office of Acquisition Management and Policy (Director, OAMP) is designated as an HCA. Each HCA is responsible for conducting an effective and efficient acquisition program. Adequate controls shall be established to assure compliance with applicable laws, regulations, procedures, and the dictates of good management practices. Periodic reviews shall be conducted and evaluated by qualified personnel, preferably assigned to positions other than in the contracting office being reviewed, to determine the extent of adherence to prescribed policies and regulations, and to detect a need for guidance and/or training. The HCA shall be certified, or be certifiable, at Level IV of the HHS Acquisition Certification Program. Individuals appointed as HCA's who do not meet the Level IV requirements shall have one year from the date of appointment to obtain Level IV certification. The heads of contracting activities may redelegate their HCA authorities to the extent that redelegation is not prohibited by the terms of their respective delegations of authority, by law, by the Federal Acquisition Regulation, by the HHS Acquisition Regulation, or by other regulations. However, HCA and other contracting approvals and authorities shall not be redelegated below the levels specified in the HHS Acquisition Regulation or, in the absence of coverage in the HHS Acquisition Regulation, the Federal Acquisition Regulation. To ensure proper control of redelegated acquisition authorities, HCA's shall maintain a file containing successive delegations of HCA authority through and including the contracting officer level. Personnel delegated responsibility for acquisition functions must possess a level of experience, training, and ability commensurate with the complexity and magnitude of the acquisition actions involved.

[66 FR 4222, Jan. 17, 2001, as amended at 70 FR 39, Jan. 3, 2005]

Subpart 302.2—Definitions Clause**302.201 Contract clause.**

The FAR clause, Definitions, at 52.202-1 shall be used as prescribed in FAR 2.201, except as follows:

(a) Paragraph (a) at 352.202–1 shall be used in place of paragraph (a) of the FAR clause.

(b) Paragraph (h), or its alternate, at 352.202–1 shall be added to the end of the FAR clause. Use paragraph (h) when a fixed-priced contract is anticipated; use the alternate to paragraph (h) when a cost-reimbursement contract is anticipated. This is an authorized deviation.

PART 303—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 66 FR 4223, Jan. 17, 2001, unless otherwise noted.

Subpart 303.1—Safeguards

303.101 Standards of conduct.

303.101–3 Agency regulations.

The Department of Health and Human Services' Standards of Conduct are prescribed in 45 CFR part 73.

303.104–7 Violations or possible violations of the Procurement Integrity Act.

(a)(1) The contracting officer's determination that a reported violation or possible violation of the statutory prohibitions has no impact on the impending award or selection of a contractor must be submitted through appropriate channels, along with supporting documentation, to the Head of Contracting Activity (HCA) for review and approval of the determination awarding a contract.

(2) The contracting officer's determination that a reported violation or possible violation of the statutory prohibitions has an impact on the pending award or selection of a contractor must be referred through channels, along with all related information available, to the HCA (if the HCA is an SES) or to another SES official designated by the OpDiv. That individual will—

(i) Refer the matter immediately to the Office of Acquisition Management and Policy (OAMP), Assistant Secretary for Administration and Management, Office of the Secretary for review, which may consult with the Office of General Counsel (OGC) and the Office of Inspector General (OIG), as appropriate; and

(ii) Determine the action to be taken on the procurement in accordance with FAR 3.104–7(c) and (d). The HCA shall obtain the approval or concurrence of the OAMP before proceeding with the action.

(b) The individual in paragraph (a)(2) of this section acts as the agency head designee with respect to actions taken under the FAR clause 52.203–10, Price or Fee Adjustment for Illegal or Improper Authority.

[70 FR 39, Jan. 3, 2005]

Subpart 303.2—Contractor Gratuities to Government Personnel

303.203 Reporting suspected violations of the Gratuities clause.

Departmental personnel shall report suspected violations of the Gratuities clause in accordance with subpart M, Reporting Violations, of 45 CFR part