

*Contracting officer's representative (COR), contracting officer's technical representative (COTR), or contract administrator* means a Government employee designated in writing by the contracting officer to perform specific limited activities for the contracting officer, such as contract administration.

*Debarring official or suspending official* means the Senior Procurement Executive or a designee.

*Head of the contracting activity* means the Deputy Associate Administrator for Acquisition Policy (MV); Commissioners of the Federal Technology Service (FTS); Federal Supply Service (FSS), or Public Buildings Service (PBS); or Regional Administrators. The Deputy Associate Administrator for Acquisition Policy serves as the HCA for Central Office contracting activities outside of FTS, FSS, and PBS.

*Senior procurement executive* means the Deputy Associate Administrator for Acquisition Policy.

*Senior program official* means a person reporting to, and designated by, the HCA to have overall program responsibility for determining how the agency will meet its need. The official should have a position of authority over the participating offices. Examples include Assistant Regional Administrators or Deputy Commissioners.

## PART 503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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AUTHORITY: 40 U.S.C. 486(c).

SOURCE: At 64 FR 37204, July 9, 1999, unless otherwise noted.

## Subpart 503.1—Safeguards

### 503.104 Procurement integrity.

#### 503.104-3 Definitions.

*Federal agency procurement* as used in FAR 3.104 and in this section, also means acquisitions of leasehold interests in real property.

#### 503.104-9 Contract clauses.

##### *Acquisitions of Leasehold Interests in Real Property*

Insert a clause substantially the same as the clause at 552.203-70, Price Adjustment for Illegal or Improper Activity, in solicitations and contracts for and modifications to leasehold interests in real property exceeding \$100,000.

## Subpart 503.2—Contractor Gratuities to Government Personnel

### 503.204 Treatment of violations.

(a) The Senior Procurement Executive, or designee, makes determinations under FAR 3.204.

The Senior Procurement Executive, or designee, takes all the following actions:

- (1) Coordinates with legal counsel.
- (2) Initiates proceedings under FAR 3.204(a) by notifying the contractor that GSA is considering action against the contractor for a violation of the Gratuities clause. Notice is sent by a certified letter to the last known address of the party, its counsel, or agent for service of process. In the case of a business, notice is sent to any partner, principal officer, director, owner or co-owner, or joint venture.
- (3) Presumes receipt if no return receipt is received within 10 calendar days after mailing the notice.

(b) The contractor has 30 calendar days to exercise its rights under FAR 3.204(b), unless the Senior Procurement Executive, or designee, grants an extension.

(c) If there is a dispute of fact material to making a determination, the Senior Procurement Executive, or designee, may refer the matter to an agency fact-finding official designated by the Chairman of the GSA Board of Contract Appeals. Referrals for fact-finding are not made in cases arising from a conviction or indictment as defined in FAR 9.403. If a referral is made, the fact-finding official takes all the following actions:

(1) Gives the contractor an opportunity to dispute material facts relating to the determinations under FAR 3.204(a)(1) and (2).

(2) Conducts proceedings under rules consistent with FAR 3.204(b).

(3) Schedules a hearing within 20 calendar days of receipt of the referral. The contractor or GSA may request an extension for good cause.

(4) Delivers to the Senior Procurement Executive, or designee, written findings of fact (together with a transcription of the proceedings, if made) within 20 calendar days after the hearing record closes. The findings must resolve any material disputes of fact by a preponderance of the evidence.

(d) The Senior Procurement Executive, or designee, may reject the findings of the fact-finding official only if the findings are clearly erroneous or arbitrary and capricious.

(e) In cases arising from conviction or indictment, or in which there are no disputes of material fact, the Senior Procurement Executive, or designee, conducts the hearing required by FAR 3.204(b).

(f) If the Gratuities clause was violated, the contractor may present evidence of mitigating factors to the Senior Procurement Executive, or designee, either orally or in writing, in accordance with a schedule the Senior Procurement Executive, or designee, establishes. The Senior Procurement Executive, or designee, exercises the Government's rights under FAR 3.204(c) only after considering mitigating factors.

## Subpart 503.4—Contingent Fees

### 503.404 Contract clause.

Insert 552.203–5, Covenant Against Contingent Fees, in solicitations and contracts for the acquisition of leasehold interests in real property expected to exceed \$100,000.

## Subpart 503.5—Other Improper Business Practices

### 503.570 Advertising.

#### 503.570–1 Policy.

GSA policy precludes contractors from referring to GSA contracts in commercial advertising in a manner that states or implies the Government approves or endorses the product or service or considers it superior to other products or services. The intent of this policy is to prevent the appearance of Government bias toward any product or service.

#### 503.570–2 Contract clause.

Insert the clause at 552.203–71, Restriction on Advertising, in solicitations and contracts, including acquisitions of leasehold interests in real property, if the contract amount is expected to exceed the simplified acquisition threshold.

## Subpart 503.7—Voiding and Rescinding Contracts

### 503.702 Definition.

*Notice* means a letter sent by certified mail with a return receipt requested to the last known address of a party, its counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt is presumed.

*Voiding and rescinding official* means the Senior Procurement Executive or designee.

### 503.705 Procedures.

#### (a) Contracting officer's actions:

(1) If a contract is tainted by misconduct, consult with assigned counsel