

**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**

**Subpart 303.1—Safeguards**

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303.101 Standards of conduct.

303.101-3 Agency regulations.

**Subpart 303.2—Contract Gratuities to Government Personnel**

303.203 Reporting suspected violations of the Gratuities clause.

**Subpart 303.3—Reports of Suspected Antitrust Violations**

303.303 Reporting suspected antitrust violations.

**Subpart 303.4—Contingent Fees**

303.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

**Subpart 303.6—Contracts With Government Employees or Organizations Owned or Controlled by Them**

303.602 Exceptions.

**Subpart 303.7—Voiding and Rescinding Contracts**

303.704 Policy.

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.

**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 73. Refer to subpart B, Gifts from Outside Sources, (5 CFR 2635.201) for an explanation regarding what is prohibited and what is permitted.

**Subpart 303.3—Reports of Suspected Antitrust Violations****303.303 Reporting suspected antitrust violations.**

A copy of each report of suspected antitrust violations submitted to the Attorney General by the HCA shall also be submitted to the Director, Office of Acquisition Management.

**Subpart 303.4—Contingent Fees****303.405 Misrepresentations or violations of the Covenant Against Contingent Fees.**

(c) Reports shall be made promptly to the contracting officer.

(d)(4) Suspected fraudulent or criminal matters to be reported to the Department of Justice shall be prepared in letter format and forwarded through acquisition channels to the head of the contracting activity for signature. The letter must contain all pertinent facts and background information considered by the contracting officer and chief of the contracting office that led to the decision that fraudulent or criminal matters may be present. A copy of the signed letter shall be sent to the Director, Office of Acquisition Management.

## Health and Human Services

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### Subpart 303.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

#### 303.602 Exceptions.

Approval of an exception to the policy stated in FAR 3.601 shall be made by the HCA (not delegable).

### Subpart 303.7—Voiding and Rescinding Contracts

#### 303.704 Policy.

For purposes of implementing FAR subpart 3.7, the authorities granted to the “agency head or designee” shall be exercised by the HCA (not delegable).

## PART 304—ADMINISTRATIVE MATTERS

### Subpart 304.6—Contract Reporting

Sec.

304.602 Federal Procurement Data System (FPDS).

### Subpart 304.8—Government Contract Files

304.804-70 Contract closeout audits.

#### Subpart 304.70—Acquisition Instrument Identification Numbering System

304.7000 Scope of subpart.

304.7001 Numbering acquisitions.

#### Subpart 304.71—Review and Approval of Proposed Contract Awards

304.7100 Policy.

304.7101 Procedures.

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

SOURCE: 66 FR 4224, Jan. 17, 2001, unless otherwise noted.

### Subpart 304.6—Contracting Reporting

#### 304.602 Federal Procurement Data System (FPDS).

The Departmental Contracts Information System (DCIS) represents the Department's implementation of the FPDS. All departmental contracting activities are required to participate in the DCIS and follow the procedures stated in the Enhanced Departmental Contracts Information System Manual

and amendments to it. The HCA (not delegable) shall ensure that all required contract information is collected, submitted, and received into the DCIS on or before the 15th of each month for all appropriate contract and contract modifications award of the prior month.

### Subpart 304.8—Government Contract Files

#### 304.804-70 Contract closeout audits.

(a) Contracting officers shall rely, to the maximum extent possible, on non-Federal single audits to close physically completed cost-reimbursement contracts with colleges and universities, hospitals, non-profit firms, and State and local governments. In addition, where appropriate, a sample of these contractors may be selected for audit, in accordance with the decision-making process set forth in the following paragraph (b).

(b) Contracting officers shall request contract closeout audits on physically completed, cost-reimbursement, for-profit contracts in accordance with the following:

(1) Decisions on: The need for and allocation of contract audit resources and services; the selection of contracts or contractors to be audited; the identification of the audit agency to perform the audit; and the type or scope of closeout audit to be conducted, shall be made by the Office of Inspector General (OIG) and Office of Grants and Acquisition Management, in consultation with the Department's Contract Audit Users Work Group. These decisions shall be based upon the needs of the customer, risk analysis, return on investment, and the availability of audit resources. When an audit is warranted prior to closing a contract, the contracting officer shall submit the audit request to the OIG's Office of Audit via the appropriate OPDIV representative on the Contract Audit Users Work Group.

(2) Except where a contracting officer suspects misrepresentation or fraud, contract closeout field audits shall not be requested if the cost of performance is likely to exceed the potential cost recovery. Contracts that are not selected for a field audit may be closed