

401.603

401.603 Selection, appointment, and termination of appointment.

401.603-1 General.

An HCA may delegate contracting authority to the extent authorized by the SPE in a general delegation of acquisition authority, by appointing qualified individuals as contracting officers, in accordance with the USDA Contracting Officer Warrant System, Departmental Regulation 5001-1.

PART 402—DEFINITIONS OF WORDS AND TERMS

Sec.

402.000 Scope of part.

Subpart 402.1—Definitions

402.101 Definitions.

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

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

402.000 Scope of part.

As used throughout this chapter, the following words and terms are used as defined in this subpart unless the context in which they are used clearly requires a different meaning, or a different definition is prescribed for a particular part or portion of a part.

Subpart 402.1—Definitions

402.101 Definitions.

Acquisition official means an individual who has been delegated authority to manage or to exercise acquisition functions and responsibilities.

Agency head or *Head of the Agency* means the Secretary of Agriculture, Deputy Secretary, or the Assistant Secretary for Administration.

Head of the contracting activity (HCA) means the official who has overall responsibility for managing the contracting activity (*i.e.*, Chief, Forest Service; Administrator, Agricultural Research Service; etc.), or the individual designated by such an official to carry out the functions of the HCA.

Senior Procurement Executive (SPE) means the agency official appointed as such by the head of the agency pursuant to Executive Order 12931. The Di-

48 CFR Ch. 4 (10-1-09 Edition)

rector, Office of Procurement and Property Management, has been designated as the USDA SPE.

[61 FR 53646, Oct. 15, 1996, as amended at 63 FR 26994, May 15, 1998]

PART 403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 403.1—Safeguards

Sec.

403.101 Standards of conduct.

403.101-3 Agency regulations.

403.104 Procurement integrity.

403.104-5 [Reserved]

403.104-7 Violations or possible violations.

Subpart 403.2—Contractor Gratuities to Government Personnel

403.203 Reporting suspected violations of the gratuities clause.

403.204 Treatment of violations.

Subpart 403.3—Reports of Suspected Antitrust Violations

403.303 Reporting suspected antitrust violations.

Subpart 403.4—Contingent Fees

403.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 403.5—Other Improper Business Practices

403.502 Subcontractor kickbacks.

Subpart 403.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

403.602 Exceptions.

403.603 Responsibilities of the contracting officer.

Subpart 403.8—Limitation on the Payment of Funds To Influence Federal Transactions

403.806 Processing suspected violations

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

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

Subpart 403.1—Safeguards

403.101 Standards of conduct.

403.101-3 Agency regulations.

(a) The standards of conduct for USDA procurement officials are the uniform standards established by the Office of Government Ethics in 5 CFR Part 2635, *Standards of Ethical Conduct for Employees of the Executive Branch*, and FAR 3.104, *Procurement integrity*.

(b) Procurement officials and other employees who require advice concerning the application of standards of conduct to any acquisition issue shall obtain ethics advisory opinions from ethics advisory officials in their agency personnel offices.

403.104 Procurement integrity.

403.104-5 [Reserved]

403.104-7 Violations or possible violations.

The contracting officer shall forward information concerning any violation or possible violation of the Procurement Integrity Act (41 U.S.C. 423) to the chief of the contracting office.

[61 FR 53646, Oct. 15, 1996, as amended at 63 FR 26995, May 15, 1998. Redesignated and amended at 70 FR 44, Jan. 3, 2005]

Subpart 403.2—Contractor Gratuities to Government Personnel

403.203 Reporting suspected violations of the gratuities clause.

A suspected violation of the contract clause, FAR 52.203-3, *Gratuities*, shall be reported immediately to the cognizant contracting officer in writing, stating the circumstances surrounding the incident(s), the date(s), and names of all parties involved. The contracting officer shall review the report for completeness, add any additional information deemed necessary and a recommendation for action, and submit the report to the HCA.

403.204 Treatment of violations.

The HCA shall review the report and consult with the Offices of General Counsel and Inspector General to determine whether further action should

be pursued. If it is found that the facts and circumstances warrant further action, the HCA shall give the contractor a formal written notice which summarizes the reported violation and affords the contractor the opportunity to make a written or oral response within a reasonable, specified period after receipt of the notice. The notice shall be sent by certified mail with return receipt requested. Oral presentations shall follow the procedures outlined in FAR 3.204(b). The HCA shall furnish copies of any adverse determination to the contracting officer and the Department Debarring Officer for their subsequent considerations under FAR 3.204(c)(1) and (2), respectively.

Subpart 403.3—Reports of Suspected Antitrust Violations

403.303 Reporting suspected antitrust violations.

Contracting officers shall report the circumstances of suspected violations of antitrust laws to the Office of Inspector General in accordance with procedures in Departmental Regulations (1700 series).

Subpart 403.4—Contingent Fees

403.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) A suspected misrepresentation or violation of the Covenant Against Contingent Fees shall be documented in writing by the contracting officer and reported immediately to the chief of the contracting office. The chief of the contracting office shall determine if a violation has occurred and report any violation to the Office of Inspector General. The chief of the contracting office shall take action in accordance with FAR 3.405(b).

(b) If the chief of the contracting office decides to refer the case to the Department of Justice, it should be referred through the Office of Inspector General with a copy of the report and referral submitted through the HCA to the Senior Procurement Executive.

[61 FR 53646, Oct. 15, 1996. Redesignated and amended at 70 FR 44, Jan. 3, 2005]

403.502

Subpart 403.5—Other Improper Business Practices

403.502 Subcontractor kickbacks.

Contracting officers shall report the circumstances of suspected violations of the Anti-Kickback Act (41 U.S.C. 51-58) to the Office of Inspector General in accordance with procedures in Departmental Regulations (1700 series).

[61 FR 53646, Oct. 15, 1996, as amended at 70 FR 44, Jan. 3, 2005]

Subpart 403.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

403.602 Exceptions.

The HCA is authorized to accept a contract from the policy in FAR 3.601.

403.603 Responsibilities of the contracting officer.

The contracting officer, when requesting authorization under 403.602, shall prepare a written determination and findings for the signature of the HCA. The determination shall document compliance with FAR 3.603, specifying the compelling reason(s) for award, and shall be placed in the contract file.

Subpart 403.8—Limitation on the Payment of Funds To Influence Federal Transactions

403.806 Processing suspected violations.

Suspected violations of the requirements of 31 U.S.C. 1352 shall be referred to the Office of Inspector General in accordance with procedures in Departmental Regulations (1700 series).

PART 404—ADMINISTRATIVE MATTERS

Subpart 404.2—Contract Distribution

Sec.
404.203 Taxpayer identification information.

48 CFR Ch. 4 (10-1-09 Edition)

Subpart 404.4—Safeguarding Classified Information Within Industry

404.403 Responsibilities of contracting officers.

Subpart 404.6—Contract Reporting

404.601 [Reserved]

404.602 Federal Procurement Data System.

Subpart 404.8—Government Contract Files

404.870 Document numbering system.

Subpart 404.11—Central Contractor Registration

404.1103 Procedures.

Subpart 404.70—Precontract Notices

404.7001 Solicitation provision.

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

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

Subpart 404.2—Contract Distribution

404.203 Taxpayer identification information.

(a) If the contractor furnishes taxpayer identification number (TIN) and type of organization information pursuant to solicitation provision 52.204-3 or 52.212-3, and the USDA Office of the Chief Financial Officer, Controller Operations Division, New Orleans will be the payment office, that information will be entered into the Foundation Financial Information System (FFIS) in accordance with FFIS Vendor Table Maintenance Procedures set forth in FFIS Bulletins issued by the Office of the Chief Financial Officer and AGAR Advisories issued by the Office of Procurement and Property Management.

(b) Separate submission of the TIN or type of organization information, in accordance with 52.204-3 or 52.212-3, is not required for contractors registered in the Central Contractor Registration (CCR) database.

[70 FR 44, Jan. 3, 2005]