

Department of the Interior

1403.101-70

PART 1403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1403.10—Contractor Code of Business Ethics and Conduct

Subpart 1403.1—Safeguards

Sec.

- 1403.101 Standards of conduct.
- 1403.101-3 Agency regulations.
- 1403.101-70 Technical evaluators and advisors.
- 1403.104 Procurement integrity.
- 1403.104-2 Applicability.
- 1403.104-4 Disclosure, protection and marking of contractor bid or proposal information and source selection information.
- 1403.104-7 Violations or possible violations.

Subpart 1403.2—Contractor Gratuities to Government Personnel

- 1403.203 Reporting suspected violations of the Gratuities clause.
- 1403.204 Treatment of violations.

Subpart 1403.3—Reports of Suspected Antitrust Violations

- 1403.303 Reporting suspected antitrust violations.

Subpart 1403.4—Contingent Fees

- 1403.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 1403.5—Other Improper Business Practices

- 1403.570 Restrictions on contractor advertising.
- 1403.570-1 Policy.
- 1403.570-2 Procedures.
- 1403.570-3 Contract clause.

Subpart 1403.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

- 1403.602 Exceptions.
- 1403.603 Responsibilities of the contracting officer.

Subpart 1403.7—Voiding and Rescinding Contracts

- 1403.704 Policy.
- 1403.705 Procedures.

Subpart 1403.8—Limitation on the Payment of Funds to Influence Federal Transactions

- 1403.804 Policy.
- 1403.806 Processing suspected violations.

1403.1004 Contract clause.

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Subpart 1403.1—Safeguards

1403.101 Standards of conduct.

1403.101-3 Agency regulations.

(a) Policy. DOI regulations governing the conduct and responsibilities of regular and special employees are contained in 43 CFR part 20. Additional guidance is contained in the DOI publication "Ethics Guide for Department of the Interior Employees." Copies of the Guide can be obtained from the Bureau/Office Ethics Office or on the Internet at <http://www.doi.gov/ethics/>. With regard to the provisions of 43 CFR part 20, officials who participate personally and substantially in DOI procurements (as defined in FAR 3.104-3), may not solicit or accept any gift, gratuity, favor, entertainment, loan or anything of monetary value from a competing contractor during the conduct of a procurement.

(b)(1) Officials may not accept or solicit from any competing contractor any services that involve the development of specifications, statements of work, evaluation criteria, or formal cost estimates to be used in a procurement unless such services are formally contracted for pursuant to the FAR and DIAR, and until the organizational COI provisions in FAR Subpart 9.5 have been fully addressed. This does not preclude COs from issuing formal Requests for Comment (RFC) or draft RFPs.

(2) IT resources shall not be accepted, installed or utilized by the Department on a no cost, free of charge basis (this includes donated equipment but not public domain software), except as permitted by law.

1403.101-70 Technical evaluators and advisors.

(a) Technical evaluators and advisors, including members of proposal evaluation committees, must render

1403.104

impartial, technically sound, and objective assistance and advice.

(b) With the exception of contracting personnel, proposal evaluators and advisors are not required to file a Confidential Financial Disclosure Report (SF450) unless they occupy positions identified in 43 CFR 20.735.30(b). Therefore, when an individual is appointed as an evaluator or advisor, he/she must sign and return to the CO a Conflict of Interest Certificate in a format approved by the HCA. If a potential COI exists, the appointee must not be allowed to evaluate or advise on an offeror's proposal until the conflict has been resolved with the servicing Ethics Counselor.

(c) During the evaluation process, each evaluator and advisor is responsible for ensuring that there are no financial or employment interests that conflict or give the appearance of conflicting with his or her duty to evaluate proposals impartially and objectively. Examples of situations that may be prohibited or represent a potential COI include:

(1) Financial interest, including stocks and bonds, in a firm that submits, or is expected to submit, an offer in response to the solicitation;

(2) Outstanding financial commitments to any actual or potential offeror;

(3) Employment in any capacity, even if otherwise permissible, by any actual or potential offeror;

(4) Employment within the last 12 months by an actual or potential offeror;

(5) Any non-vested pension or re-employment rights, or interest in profit sharing or stock bonus plans arising out of past employment by an actual or potential offeror; or

(6) Employment of any member of the immediate family by an actual or potential offeror.

(d) Bureaus shall include a notice similar to the following in all correspondence notifying employees of appointments to serve as technical evaluators or advisors, formally called Technical Evaluation Panels (TEP) and/or Source Evaluation Boards (SEB):

You shall not solicit or accept any gift, gratuity, favor, entertainment, loan, or any-

48 CFR Ch. 14 (10-1-10 Edition)

thing of monetary value from a competing contractor involved in any action for which you participate personally and substantially under this delegation of authority. You are also reminded of other conduct prohibitions in FAR 3.104-3, including negotiating with competing contractors for future employment, disclosure of contractor bid or proposal information or source selection information, and post-Government employment restrictions.

Such notice shall include an acknowledgment of receipt signed and returned by the employee.

1403.104 Procurement integrity.

1403.104-2 Applicability.

Construction contracts (or subcontracts in such cases where the tribal contractor has subcontracted the activity) awarded under the authority of the Indian Self-Determination and Education Assistance Act, Public Law 93-638, as amended, are subject to the provisions promulgated under that Act.

1403.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a) The following classes of persons may be authorized access to contractor bid or proposal information and source selection information to the extent necessary to accomplish their requisite duties and responsibilities with respect to a particular procurement:

(1) Individuals who generate contract requirements, including program and technical experts involved in the development of statements of work, specifications or similar documents;

(2) Contracting personnel acting in support of the CO;

(3) Secretarial, clerical and administrative personnel of the contracting activity directly involved in the procurement;

(4) Supervisors in the CO's chain of command;

(5) Attorneys in the SOL;

(6) OIG contract auditors, and auditors of other agencies such as the Defense Contract Audit Agency (DCAA) and DHHS when requested to perform contract audits by the OIG;

(7) Engineers and other technical support personnel who provide support to the CO;