

OGC, the HCA may make the determination and concurrence specified in FAR 3.104-7(a)(1).

(b) Upon receipt of information describing a violation or possible violation of subsections 27(a), (b), (c), or (d) of the Office of Federal Procurement Policy Act of 1974 (see FAR 3.104-3), the HCA will take action in accordance with FAR 3.104-7(b). The HCA must also report violations or possible violations to the VA Office of the Inspector General.

(c) The authority to make the determinations specified in FAR 3.104-7(b)(5) and 3.104-7(d)(2)(ii)(B) is delegated to the SPE and is further delegated to the DSPE.

(d) As provided in FAR 3.104-7(f), the HCA may authorize a contracting officer to award a contract after notifying the DSPE of the circumstances warranting such an award.

Subpart 803.2—Contractor Gratuities to Government Personnel

803.203 Reporting suspected violations of the Gratuities clause.

(a) Any VA employee must report a suspected violation of the Gratuities clause to the contracting officer or a higher level VA official.

(b) The report must identify the contractor and the personnel involved, provide a summary of the pertinent evidence and circumstances that indicate a violation, and include any other available supporting documentation.

(c) The contracting officer or higher level official must supplement the file with appropriate information and promptly forward the report to the DSPE, with copies to the VA Office of the Inspector General and the Assistant Secretary for Management.

803.204 Treatment of violations.

In providing the notice and hearing required by FAR 3.204, the SPE may make the determinations required by FAR 3.204. This authority is further delegated to the DSPE. The DSPE shall use the following procedures to determine whether or not a violation of the Gratuities clause has occurred:

(a) Upon receipt of an allegation or evidence of a violation of the Gratu-

ities clause, the DSPE shall refer the matter to the D&S Committee to conduct a fact-finding. Upon completion of the fact-finding, the D&S Committee shall present the facts and recommendations for further action to the DSPE.

(b) If the DSPE finds a basis for further action, the D&S Committee shall prepare a notice under FAR 3.204 for signature of the DSPE. If suspension or debarment is also being considered, the D&S Committee shall also follow the procedures contained in 809.4. The signed notice will be sent to the last known address of the contractor, the contractor's counsel, or agent for service of process, by certified mail, return receipt requested, or any other method that provides signed evidence of receipt. In the case of a business, the D&S Committee may send the notice to any partner, principal, officer, director, owner or co-owner, or joint venture.

(c) If VA does not receive a reply from the contractor within 45 calendar days of sending the notice, the D&S Committee will prepare a recommendation and refer the case to the DSPE for a decision on whether or not to take further action under FAR 3.204.

(d) If VA receives a reply from the contractor within 45 calendar days of sending the notice, the D&S Committee must consider the information in the reply before the D&S Committee makes its recommendation to the DSPE.

(e) The D&S Committee, upon the request of the contractor, must, as soon as practicable, allow the contractor an opportunity to appear before the D&S Committee, in person or through a representative, to present information or argument. The contractor may supplement the oral presentation with written information and argument. The proceeding will be conducted in an informal manner and without requirement for a transcript. The D&S Committee shall prepare a report of the presentation for submission to the DSPE and must consider the information presented when making its recommendation to the DSPE.

(f) If the D&S Committee finds that the contractor's submission in opposition to further action under FAR 3.204