

## Department of Transportation

1202.7000

commitment. Disciplinary action against an employee who makes an unauthorized commitment may be considered.

### 1201.603-1 General.

Each DOT OA is responsible for appointing its contracting officers.

## PART 1202—DEFINITIONS OF WORDS AND TERMS

### Subpart 1202.1—Definitions

Sec.

1202.1 Definitions.

### Subpart 1202.70—Internet Links

1202.7000 General.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418b; (FAR) 48 CFR 1.3.

SOURCE: 70 FR 6507, Feb. 7, 2005, unless otherwise noted.

### Subpart 1202.1—Definitions

#### 1202.1 Definitions.

*Agency, Federal agency or Executive agency* means the Department of Transportation.

*Chief Information Officer* means the Director of the Office of the Chief Information Officer (CIO) (S-80).

*Chief of the Contracting Office (COCO)* means the individual(s) responsible for managing the contracting office(s) within an Operating Administration.

*Contracting activity* includes all the contracting offices within an Operating Administration and is the same as the term “procuring activity.”

*Contracting officer (CO)* means an individual authorized by virtue of their position or by appointment to perform the functions assigned by the Federal Acquisition Regulation (FAR), the Transportation Acquisition Regulation (TAR) and Transportation Acquisition Manual (TAM).

*Department of Transportation* means all of the Operating Administrations included within the Department of Transportation (DOT).

*Head of the agency or agency head* for Departmental procurement means the Deputy Secretary except for acquisition actions that, by the terms of a statute or delegation, must be done

specifically by the Secretary of Transportation.

*Head of the Contracting Activity (HCA)* means the individual responsible for managing the contracting offices within an Operating Administration who is a member of the Senior Executive Service or a flag officer and is the same as the term “Head of the Procuring Activity.”

*Head of the Operating Administration (HOA)* means the individual appointed by the President to manage the operating administration.

*Operating Administration (OA)* means the following components of DOT:

(1) Federal Aviation Administration (FAA); (FAA is exempt from FAR, TAR and TAM pursuant to the Department of Transportation and Related Agencies Appropriations Act, 1996, Public Law 104-50;

(2) Federal Highway Administration (FHWA);

(3) Federal Motor Carrier Safety Administration (FMCSA);

(4) Federal Railroad Administration (FRA);

(5) Federal Transit Administration (FTA);

(6) Maritime Administration (MARAD);

(7) National Highway Traffic Safety Administration (NHTSA);

(8) Office of the Secretary of Transportation (OST);

(9) Pipeline and Hazardous Materials Safety Administration (PHMSA).

(10) Research and Innovative Technology Administration (RITA).

(11) Saint Lawrence Seaway Development Corporation (SLSDC).

*Senior Procurement Executive (SPE)* means the Director of the Office of the Senior Procurement Executive (M-60).

*Small Business Specialist (SBS)* means the individual appointed by each HCA to assist the Director, Office of the Small and Disadvantaged Business Utilization in carrying out the purpose of the Small Business Act.

[70 FR 6507, Feb. 7, 2005, as amended at 70 FR 76417, Dec. 27, 2005]

### Subpart 1202.70—Internet Links

#### 1202.7000 General.

Most documents cited throughout (TAR) 48 CFR chapter 12, can be found

on the internet. (TAR) 48 CFR chapter 12 will cite the corresponding internet address.

## **PART 1203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

### **Subpart 1203.1—Safeguards**

Sec.

1203.101–3 Agency regulations.

### **Subpart 1203.2—Contractor Gratuities to Government Personnel**

1203.203 Reporting suspected violations of the Gratuities clause.

1203.204 Treatment of violations.

### **Subpart 1203.3—Reports of Suspected Antitrust Violations**

1203.301 General.

1203.303 Reporting suspected antitrust violations.

### **Subpart 1203.4—Contingent Fees**

1203.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

### **Subpart 1203.5—Other Improper Business Practices**

1203.502 Subcontractor kickbacks.

1203.502–2 Subcontractor kickbacks.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418b; (FAR) 48 CFR 1.3.

SOURCE: 70 FR 6507, Feb. 7, 2005, unless otherwise noted.

### **Subpart 1203.1—Safeguards**

#### **1203.101–3 Agency regulations.**

(b) 5 CFR part 2635, Standards of Ethical Conduct for Employees of the Executive Branch, takes precedence over the DOT regulation at 49 CFR part 99.

### **Subpart 1203.2—Contractor Gratuities to Government Personnel**

#### **1203.203 Reporting suspected violations of the Gratuities clause.**

(a) Suspected violations of the Gratuities clause shall be reported to the contracting officer responsible for the acquisition (or the COCO if the contracting officer is suspected of the vio-

lation). The contracting officer (or COCO) shall obtain from the person reporting the violation, and any witnesses to the violation, the following information:

(1) The date, time, and place of the suspected violation;

(2) The name and title (if known) of the individual(s) involved in the violation; and

(3) The details of the violation (e.g., the gratuity offered or intended) to obtain a contract or favorable treatment under a contract.

(b) The person reporting the violation and witnesses (if any) should be requested to sign and date the information certifying that the information furnished is true and correct.

(c) The COCO shall report suspected violations to the Office of the Inspector General (OIG) (J–1), 400 7th Street, SW., Washington, DC 20590, with a copy to General Counsel (C–1) and the OA’s Chief Counsel.

#### **1203.204 Treatment of violations.**

(a) The HCA is authorized to determine whether a Gratuities clause violation has occurred. If the HCA has been personally and substantially involved in the procurement, Government legal counsel advice should be sought to determine if a substitute for the HCA should be designated.

(b) The COCO shall ensure that the contractor is afforded the hearing procedures required by (FAR) 48 CFR 3.204(b). Government legal counsel should be consulted regarding the appropriateness of the hearing procedures.

(c) If the HCA determines that the alleged gratuities violation occurred during the “conduct of an agency procurement” the COCO shall consult with Government legal counsel regarding the approach for appropriate processing of either the Procurement Integrity Act violation and/or the Gratuities violation.