

# **PART 2804 - ADMINISTRATIVE MATTERS**

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## **Subpart 2804.4 - Safeguarding Classified Information Within Industry**

### **2804.402 General.**

Classified acquisitions or contracts which require access to classified material, as defined in FAR 4.401, for their performance shall be subject to the policies, procedures, and instructions contained in departmental regulations and shall be processed in a manner consistent with those regulations.

### **2804.403 Responsibilities of contracting officers.**

For proposed solicitations and contracts which may require access to classified material or where guard services are assigned to safeguard departmental activities in possession of classified

information, the contracting officer shall consult with the COTR and the Director, Security and Emergency Planning Staff, JMD, to determine the appropriate security measures to safeguard such material and information.

## **2804.470 Contractor Personnel Security Program.**

### **2804.470-1 Policy.**

It is the policy of the Department of Justice that all acquisitions which allow unescorted contractor access to Government facilities or sensitive information contain, as appropriate, requirements for appropriate personnel security screening by the contractor. To the maximum extent practicable, contractors shall be made responsible for the performance of personnel security screening. The personnel security screening may vary from one acquisition to another, depending upon the type, context, duration and location of the work to be performed. Classified contracts are exempted from the requirements of this section because they are governed by the requirements of Executive Order 12829 (January 6, 1993).

### **2804.470-2 Responsibilities.**

(a) The primary acquiring component, together with its Security Program Manager, is responsible for providing the contracting officer with the appropriate contractor personnel security screening requirements (including waiver requirements, if appropriate) to be included in the statement of work.

(b) The contracting officer is responsible for including in the contract file for all such acquisitions, a certification made by the responsible Security Program Manager that the personnel security requirements of the contract are adequate to ensure the security of Departmental operations, information and personnel.

(c) The Security Program Manager for the acquiring component is responsible for monitoring and ensuring that the contractor personnel security requirements of the contract are accomplished.

(d) For purposes of this section, the term Contracting Officer includes anyone empowered to place orders under Blanket Purchase Agreements (BPA) or any other existing contract vehicle and/or through the use of the government-wide commercial purchase card.

## **Subpart 2804.5 - Electronic Commerce in Contracting**

### **2804.506 Exemptions.**

Pursuant to FAR 4.506(b), all determinations that FACNET processing is not cost-effective or practicable for the contracting officer, or portions thereof, shall be initiated by the HCA and submitted to the PE for processing to the Attorney General for signature.

## **Subpart 2804.6 - Contract Reporting**

### **2804.602 Federal Procurement Data System.**

(a) Federal Procurement Data System (FPDS) reports shall be submitted to the Procurement Policy and Review Group (PPRG) within 20 days of the close of each of the first three quarters of the fiscal year and within 30 days after the close of the fourth quarter. Specific preparation procedures are contained in the FPDS Reporting Manual and the Product and Service Code Manual.

(b) Bureaus shall submit periodic reports of their subcontract activities, together with copies of their Standard Forms 295 and 294 to the Director, Office of Small and Disadvantaged Business Utilization (OSDBU) as required by that office.

(c) BPCs shall provide to the PE, the name, office, mailing address, and telephone number of the individual who will provide day-to-day operational contact within the bureau for the implementation of the FPDS. Changes and updates shall be forwarded to PPRG within 10 days after they occur. It is the responsibility of the bureau contacts to ensure that all actions are reported and submitted to PPRG in a timely manner and that all statistics and reports are accurate, current, and complete. BPCs shall be responsible for validating the data.

## **Subpart 2804.8 - Government Contract Files**

### **2804.805 Storage, handling, and disposal of contract files.**

In accordance with FAR 4.805, each bureau shall prescribe procedures for the handling, storing, and disposing of contract files.

## **Subpart 2804.9 - Information Reporting to the Internal Revenue Service**

### **2804.901 Definitions.**

*Classified contract*, as used in this subpart, means a contract such that the fact of its existence of its subject matter has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive Order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

*Confidential contract*, as used in this subpart, means a contract, the reporting of which to the Internal Revenue Service (IRS) as required under 26 U.S.C. 6050M, would interfere with the effective conduct of a confidential law enforcement activity, such as contracts for sites for undercover operations or contracts with informants, or foreign counterintelligence activity.

## **2804.902 Contract information.**

(a) Pursuant to FAR 4.902, the HCA, or delegate, shall certify to the PE, in the format specified in this section, under penalty of perjury, that such official has examined the information submitted by that bureau as its FPDS data, that the data has been prepared pursuant to the requirement of 26 U.S.C. 6050M, and that, to the best of such official's knowledge and belief it is compiled from bureau records maintained in the normal course of business for the purpose of making a true, correct and complete return as required by 26 U.S.C. 6050M.

(b) The following certification will be signed and dated by the HCA, or delegate, and submitted with each bureau quarterly FPDS report (as specified by [2804.602](#)).

### CERTIFICATION

I, \_\_\_\_\_ (Name),

\_\_\_\_\_ (Title) under the penalties of perjury have examined the information to be submitted by \_\_\_\_\_ (Bureau) to the Procurement Executive, for making information returns on behalf of the Department of Justice to the Internal Revenue Service, and certify that this information has been prepared pursuant to the requirements of 26 U.S.C. 6050M and that it is to the best of my knowledge and belief, a compilation of bureau records maintained in the normal course of business for the purpose of providing true, correct and complete returns as required by 26 U.S.C. 6050M.

Signature

Date

(c) The PE will certify the consolidated FPDS data for the Department, transmit the data to the Federal Procurement Data Center (FPDC) and authorize the FPDC to make returns to the IRS on behalf of the agency.

## **2804.970 Special reporting exceptions.**

(a) The Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647) amended 26 U.S.C. 6050M to allow exceptions to the reporting requirements for certain classified or confidential contracts.

(b) The head of the agency has determined that the filing of information returns, as required by 26 U.S.C. 6050M, on confidential contracts, which involve law enforcement or foreign counterintelligence activities, would interfere with the effective conduct of those confidential law enforcement or foreign counterintelligence activities, and that the special reporting exceptions added to 26 U.S.C. 6050M by The Technical and Miscellaneous Revenue Act of 1988 to these types of contracts.