

opinion, then neither the requester nor the contractor shall be found to have knowingly violated subsection 27(d) of the Act. If the requester or the contractor has actual knowledge or reason to believe that the opinion is based upon fraudulent, misleading, or otherwise incorrect information, their reliance upon the opinion will not be deemed to be in good faith.

[62 FR 230, Jan. 2, 1997]

3.104-8 Calculating the period of compensation prohibition.

The 1-year prohibition on accepting compensation (see 3.104-4(d)(1)) begins to run as provided in this subsection:

(a) If the former official was serving in one of the positions specified in 3.104-4(d)(1)(i) on the date of the selection of the contractor, but not on the date of the award of the contract, the prohibition begins on the date of the selection of the contractor.

(b) If the former official was serving in one of the positions specified in 3.104-4(d)(1)(i) on the date of the award of the contract (whether or not they were serving on the date of the selection of the contractor), the prohibition begins on the date of the award of the contract.

(c) If the former official was serving in one of the positions specified in 3.104-4(d)(1)(ii), the prohibition begins on the last date the individual served in that position.

(d) If the former official personally made one of the decisions specified in 3.104-4(d)(1)(iii), the prohibition begins on the date the decision was made.

[62 FR 231, Jan. 2, 1997]

3.104-9 Contract clauses.

(a) The contracting officer shall insert the clause at 52.203-8, Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity, in solicitations and contracts with a value exceeding the simplified acquisition threshold.

(b) The contracting officer shall insert the clause at 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity, in solicitations and contracts with a value exceeding the simplified acquisition threshold.

[62 FR 231, Jan. 2, 1997]

3.104-10 Violations or possible violations.

(a) If the contracting officer receives or obtains information of a violation or possible violation of subsections 27 (a), (b), (c), or (d) of the Act (see 3.104-4), the contracting officer shall determine whether the reported violation or possible violation has any impact on the pending award or selection of the source therefor.

(1) If the contracting officer concludes that there is no impact on the procurement, the contracting officer shall forward the information concerning the violation or possible violation, accompanied by appropriate documentation supporting that conclusion, to an individual designated in accordance with agency procedures. With the concurrence of that individual, the contracting officer shall, without further approval, proceed with the procurement.

(2) If the individual reviewing the contracting officer's conclusion does not agree with that conclusion, the individual shall advise the contracting officer to withhold award and shall promptly forward the information and documentation to the HCA or designee.

(3) If the contracting officer concludes that the violation or possible violation impacts the procurement, the contracting officer shall promptly forward the information to the HCA or designee.

(b) The HCA or designee receiving any information describing an actual or possible violation of subsections 27 (a), (b), (c), or (d) of the Act, shall review all information available and take appropriate action in accordance with agency procedures, such as—

(1) Advising the contracting officer to continue with the procurement;

(2) Causing an investigation to be conducted;

(3) Referring the information disclosed to appropriate criminal investigative agencies;

(4) Concluding that a violation occurred; or

(5) Recommending an agency head determination that the contractor, or someone acting for the contractor, has engaged in conduct constituting an offense punishable under subsection 27(e)