




GSA Office of the Chief Acquisition Officer

27 MAY 2009

GSA Acquisition Letter V-09-05

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

FROM: DAVID A. DRABKIN   
SENIOR PROCUREMENT EXECUTIVE  
OFFICE OF THE CHIEF ACQUISITION OFFICER

SUBJECT: Contractor Fraud Disclosure Requirements

1. Purpose. To establish agency procedures when a Contracting Officer receives a Contractor's disclosure of violations of Federal criminal law, the civil False Claims Act, or significant overpayments relating to the award and performance of Federal contracts and subcontracts, in accordance with Federal Acquisition Regulation (FAR) 9.406-2 Causes for debarment, 9.407-2 Causes for suspension, and 52.203-13, Contractor Code of Business Ethics and Conduct. To advise contractors of an electronic means of filing disclosures pursuant to FAR 9.406-2 and 52.203-13.
2. Background. On November 12, 2008, FAR case 2007-006 was published as a final rule ("Contractor Business Ethics Compliance Program and Disclosure Requirements", 73 FR 67064). This final rule amended the Federal Acquisition Regulation (FAR) to amplify the requirements for a contractor code of business ethics and conduct, an internal control system, and disclosure to the Government of certain violations of Federal criminal law, violations of the civil False Claims Act, or significant overpayments. The FAR changes were effective December 12, 2008.

Contracting officers are reminded that the new revisions in FAR Subpart 9.4 require that contractors disclose violations of certain Federal criminal laws, the civil False Claims Act, or significant overpayments relating to an ongoing contract (or a closed contract, within three years of final payment) even if they occurred prior to the effective date of the FAR changes. See FAR 3.1003(a)(2).

FAR 3.1003(b) instructs contracting officers who receive these disclosures to coordinate with the agency Office of Inspector General (OIG), or take action in accordance with agency procedures. This acquisition letter establishes the agency procedures.

This letter also advises contractors of an opportunity to file their disclosures electronically with GSA contracting officers and the Office of Inspector General, GSA.

- 3. Effective Date. Upon Signature.
- 4. Termination date: This Acquisition Letter remains in effect until incorporated in the General Services Acquisition Manual (GSAM) or otherwise terminated.
- 5. Instructions/Procedures. GSAM 503.1003 is added to read as follows:

There may be instances when a Contracting Officer receives (from the GSA OIG, another agency's OIG, or the company making the Disclosure) a hard copy version of a Disclosure made to the OIG. When this happens, the Contracting Officer shall:

- a. Forward a photocopy of the disclosure to the Office of the Chief Acquisition Officer within 10 business days of receipt. The following format shall be followed:
  - i. The contracting officer shall prepare a cover page for the Disclosure that states:

**FOUO—For Official Use Only  
Contractor Disclosure**

Contractor name: \_\_\_\_\_  
Contract number: \_\_\_\_\_  
Date received: \_\_\_\_\_  
GSA Office/Region:  
Contracting officer's name: \_\_\_\_\_  
Contracting officer's primary telephone number: \_\_\_\_\_  
Contracting officer's email address: \_\_\_\_\_

No additional information should be included on the cover page.

- ii. Place the Cover page and Disclosure document into an Envelope addressed to:

Senior Procurement Executive  
Office of the Chief Acquisition Officer  
General Services Administration  
Room 4040  
1800 F Street, NW  
Washington, DC 20405

- b. Ensure GSA's OIG received a copy of the disclosure and coordinate with the OIG throughout the pendency of the IG's review, noting such contacts in the contract file.
- c. After receiving a disclosure about a contractor performing on a contract administered by the Contracting Officer, prior to taking any contractual action on the contract, the Contracting Officer shall consult with the Office of the Chief Acquisition Officer and the Office of General Counsel, and coordinate with the OIG.

6. Any questions or concerns regarding this Acquisition Letter shall be directed to Ernest Woodson, Procurement Analyst, Office of Contract Policy, Office of the Chief Acquisition Officer at: (202) 501-3775; or email at: [ernest.woodson@gsa.gov](mailto:ernest.woodson@gsa.gov).