

SEC. 841. ETHICS SAFEGUARDS RELATED TO CONTRACTOR CONFLICTS OF INTEREST.

(a) Policy on Personal Conflicts of Interest by Employees of Federal Government Contractors- Not later than 270 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall develop and issue a standard policy to prevent personal conflicts of interest by contractor employees performing acquisition functions closely associated with inherently governmental functions (including the development, award, and administration of Government contracts) for or on behalf of a Federal agency or department.

(1) ELEMENTS OF POLICY- The policy required under subsection

(a) shall--

(A) provide a definition of the term 'personal conflict of interest' as it relates to contractor employees performing acquisition functions closely associated with inherently governmental functions; and

(B) require each contractor whose employees perform acquisition functions closely associated with inherently governmental functions to--

(i) identify and prevent personal conflicts of interest for employees of the contractor who are performing such functions;

(ii) prohibit contractor employees who have access to non-public government information obtained while performing such functions from using such information for personal gain;

(iii) report any personal conflict-of-interest violation by such an employee to the applicable contracting officer or contracting officer's representative as soon as it is identified;

(iv) maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;

(v) have procedures in place to screen for potential conflicts of interest for all employees performing such functions; and

(vi) take appropriate disciplinary action in the case of employees who fail to comply with policies established pursuant to this section.

(2) CONTRACT CLAUSE-

(A) The Administrator shall develop a personal conflicts-of-interest clause or a set of clauses for inclusion in solicitations and contracts (and task or delivery orders) for the performance of acquisition functions closely associated with inherently governmental functions that sets forth the personal conflicts-of-interest policy

developed under this subsection and that sets forth the contractor's responsibilities under such policy.

(B) Subparagraph (A) shall take effect 300 days after the date of the enactment of this Act and shall apply to--

(i) contracts entered into on or after that effective date; and

(ii) task or delivery orders awarded on or after that effective date, regardless of whether the contracts pursuant to which such task or delivery orders are awarded are entered before, on, or after the date of the enactment of this Act.

(3) APPLICABILITY-

(A) Except as provided in subparagraph (B), this subsection shall apply to any contract for an amount in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) if the contract is for the performance of acquisition functions closely associated with inherently governmental functions.

(B) If only a portion of a contract described in subparagraph (A) is for the performance of acquisition functions described in that subparagraph, then this subsection applies only to that portion of the contract.

(b) Review of Federal Acquisition Regulation Relating to Conflicts of Interest-

(1) REVIEW- Not later than 12 months after the date of the enactment of this Act, the Administrator for Federal Procurement Policy, in consultation with the Director of the Office of Government Ethics, shall review the Federal Acquisition Regulation to--

(A) identify contracting methods, types and services that raise heightened concerns for potential personal and organizational conflicts of interest; and

(B) determine whether revisions to the Federal Acquisition Regulation are necessary to--

(i) address personal conflicts of interest by contractor employees with respect to functions other than those described in subsection (a); or
(ii) achieve sufficiently rigorous, comprehensive, and uniform government-wide policies to prevent and mitigate organizational conflicts of interest in Federal contracting.

(2) REGULATORY REVISIONS- If the Administrator determines pursuant to the review under paragraph (1)(B) that revisions to the Federal Acquisition Regulation are necessary, the Administrator shall work with the Federal Acquisition Regulatory Council to prescribe appropriate revisions to the regulations, including the development of appropriate contract clauses.

(3) REPORT- Not later than March 1, 2010, the Administrator shall submit to the Committees on Armed Services of the Senate and House of Representatives, the Committee on Homeland Security and Governmental Affairs in the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a report setting forth such findings and determinations under subparagraphs (A) and (B) of paragraph (1), together with an assessment of any revisions to the Federal Acquisition Regulation that may be necessary.

(c) Best Practices- The Administrator for Federal Procurement Policy shall, in consultation with the Director of the Office Government Ethics, develop and maintain a repository of best practices relating to the prevention and mitigation of organizational and personal conflicts of interest in Federal contracting.