

### 3.601

shall use the clause with its Alternate I.

[60 FR 48235, Sept. 18, 1995, as amended at 61 FR 39190, July 26, 1996]

### **Subpart 3.6—Contracts With Government Employees or Organizations Owned or Controlled by Them**

#### **3.601 Policy.**

(a) Except as specified in 3.602, a contracting officer shall not knowingly award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees. This policy is intended to avoid any conflict of interest that might arise between the employees' interests and their Government duties, and to avoid the appearance of favoritism or preferential treatment by the Government toward its employees.

(b) For purposes of this subpart, special Government employees (as defined in 18 U.S.C. 202) performing services as experts, advisors, or consultants, or as members of advisory committees, are not considered Government employees unless—

(1) The contract arises directly out of the individual's activity as a special Government employee;

(2) In the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract; or

(3) Another conflict of interest is determined to exist.

[55 FR 34864, Aug. 24, 1990]

#### **3.602 Exceptions.**

The agency head, or a designee not below the level of the head of the contracting activity, may authorize an exception to the policy in 3.601 only if there is a most compelling reason to do so, such as when the Government's needs cannot reasonably be otherwise met.

#### **3.603 Responsibilities of the contracting officer.**

(a) Before awarding a contract, the contracting officer shall obtain an authorization under 3.602 if—

### 48 CFR Ch. 1 (10–1–02 Edition)

(1) The contracting officer knows, or has reason to believe, that a prospective contractor is one to which award is otherwise prohibited under 3.601; and

(2) There is a most compelling reason to make an award to that prospective contractor.

(b) The contracting officer shall comply with the requirements and guidance in subpart 9.5 before awarding a contract to an organization owned or substantially owned or controlled by Government employees.

### **Subpart 3.7—Voiding and Rescinding Contracts**

SOURCE: 51 FR 27116, July 29, 1986, unless otherwise noted.

#### **3.700 Scope of subpart.**

(a) This subpart prescribes Governmentwide policies and procedures for exercising discretionary authority to declare void and rescind contracts in relation to which—

(1) There has been a final conviction for bribery, conflict of interest, disclosure or receipt of contractor bid or proposal information or source selection information in exchange for a thing of value or to give anyone a competitive advantage in the award of a Federal agency procurement contract, or similar misconduct; or

(2) There has been an agency head determination that contractor bid or proposal information or source selection information has been disclosed or received in exchange for a thing of value, or for the purpose of obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract.

(b) This subpart does not prescribe policies or procedures for, or govern the exercise of, any other remedy available to the Government with respect to such contracts, including but not limited to, the common law right of avoidance, rescission, or cancellation.

[51 FR 27116, July 29, 1986, as amended at 62 FR 232, Jan. 2, 1997]

#### **3.701 Purpose.**

This subpart provides—