

503.705 Procedures.

(a) *Contracting officer's actions:*

(1) If a contract is tainted by misconduct, the contracting officer shall consult with assigned counsel to determine if the Government has a common law remedy such as avoidance, rescission, or cancellation.

(2) If the contractor has a final conviction for a violation under 18 U.S.C. 201-224, the contracting officer shall refer the matter to the Senior Procurement Executive under FAR 3.705 and shall—

(i) Identify in the referral the final conviction;

(ii) Include the information required by FAR 3.705(d)(2) through (5); and

(iii) Coordinate the referral with the Office of Inspector General to determine whether to recommend debarment.

(b) Senior Procurement Executive's actions:

(1) Reviews the referral and coordinates with assigned counsel and the contracting activity.

(2) Takes both the following actions, if the official decides to declare void and rescind a contract and to recover the amounts expended and the property transferred:

(i) Issues the notice required by FAR 3.705; and

(ii) Conducts the hearing contemplated by FAR 3.705(c)(3).

(3) Refers the matter to the agency fact-finding official, in case of a dispute of material fact about the agency decision. The Senior Procurement Executive makes this referral if the dispute of fact relates to any of the following:

(i) Contracts affected by the final conviction.

(ii) Amounts expended and property transferred by the Government under the affected contracts.

(iii) Identity and value of any tangible benefits received by the Government under the affected contracts.

(4) Issues GSA's final decision under FAR 3.705(e) after receiving the fact-finding official's report, if a referral was made. The Senior Procurement Executive may reject the fact-finding official's findings only if they are clearly erroneous or arbitrary and capricious. The Senior Procurement Executive may explain any such rejection in writing.

(5) Coordinates the final decision with the contracting activity and provides the activity a copy of the decision.

(c) *Fact-finding official's actions:* The fact-finding official takes all the following actions:

(1) Gives the contractor an opportunity to dispute material facts.

- (2) Conducts the proceedings under rules consistent with FAR 3.705(c)(3).
- (3) Schedules a hearing within 20 calendar days after receiving the referral. The official may grant extensions for good cause at the request of the contractor or GSA.
- (4) Delivers written findings of fact to the voiding and rescinding official (together with a transcription of the proceeding, if made) within 20 calendar days after the hearing record closes. The findings must resolve any material disputes of fact by a preponderance of the evidence.
- (5) Coordinates the final decision with the contracting activity and provides the activity a copy of the decision.

Parent topic: Subpart 503.7 - Voiding and Rescinding Contracts