

chases with purchase cards or convenience checks.

(2) **DISMISSAL.**—Penalties prescribed for employee misuse of purchase cards or convenience checks shall include dismissal of the employee, as appropriate.

(3) **REPORTS ON VIOLATIONS.**—The guidance prescribed under subsection (b) shall direct each head of an executive agency with more than \$10,000,000 in purchase card spending annually, and each Inspector General of such an executive agency, on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by paragraph (1) by employees of such executive agency. At a minimum, the report shall set forth the following:

(A) A summary description of confirmed violations involving misuse of a purchase card following completion of a review by the agency or by the Inspector General of the agency.

(B) A summary description of all adverse personnel action, punishment, or other action taken based on each violation.

(d) **RISK ASSESSMENTS AND AUDITS.**—The Inspector General of each executive agency shall—

(1) conduct periodic assessments of the agency purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase card or convenience check transactions;

(2) perform analysis or audits, as necessary, of purchase card transactions designed to identify—

(A) potentially illegal, improper, or erroneous uses of purchase cards;

(B) any patterns of such uses; and

(C) categories of purchases that could be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices (excluding transactions made under card-based strategic sourcing arrangements);

(3) report to the head of the executive agency concerned on the results of such analysis or audits; and

(4) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of purchase card and convenience check transactions or programs for compilation and transmission by the Director to Congress and the Comptroller General.

(e) **RELATIONSHIP TO DEPARTMENT OF DEFENSE PURCHASE CARD REGULATIONS.**—The requirements of this section shall not apply to the Department of Defense. See section 2784 of title 10 for provisions relating to management of purchase cards in the Department.

(Added Pub. L. 112–194, §2(a)(1), Oct. 5, 2012, 126 Stat. 1445.)

DEADLINE FOR GUIDANCE ON MANAGEMENT OF PURCHASE CARDS

Pub. L. 112–194, §2(c), Oct. 5, 2012, 126 Stat. 1448, provided that: “The Director of the Office of Management and Budget shall prescribe the guidance required by section 1909(b) of title 41, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act [Oct. 5, 2012].”

CHAPTER 21—RESTRICTIONS ON OBTAINING AND DISCLOSING CERTAIN INFORMATION

Sec. 2101.	Definitions.
2102.	Prohibitions on disclosing and obtaining procurement information.
2103.	Actions required of procurement officers when contacted regarding non-Federal employment.
2104.	Prohibition on former official’s acceptance of compensation from contractor.
2105.	Penalties and administrative actions.
2106.	Reporting information believed to constitute evidence of offense.
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§ 2101. Definitions

In this chapter:

(1) **CONTRACTING OFFICER.**—The term “contracting officer” means an individual who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to the contract.

(2) **CONTRACTOR BID OR PROPOSAL INFORMATION.**—The term “contractor bid or proposal information” means any of the following information submitted to a Federal agency as part of, or in connection with, a bid or proposal to enter into a Federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly:

(A) Cost or pricing data (as defined in section 2306a(h) of title 10 with respect to procurements subject to that section and section 3501(a) of this title with respect to procurements subject to that section).

(B) Indirect costs and direct labor rates.

(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

(D) Information marked by the contractor as “contractor bid or proposal information”, in accordance with applicable law or regulation.

(3) **FEDERAL AGENCY.**—The term “Federal agency” has the meaning given that term in section 102 of title 40.

(4) **FEDERAL AGENCY PROCUREMENT.**—The term “Federal agency procurement” means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

(5) **OFFICIAL.**—The term “official” means—

(A) an officer, as defined in section 2104 of title 5;

(B) an employee, as defined in section 2105 of title 5; and

(C) a member of the uniformed services, as defined in section 2101(3) of title 5.

(6) PROTEST.—The term “protest” means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to subchapter V of chapter 35 of title 31.

(7) SOURCE SELECTION INFORMATION.—The term “source selection information” means any of the following information prepared for use by a Federal agency to evaluate a bid or proposal to enter into a Federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly:

(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.

(B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

(C) Source selection plans.

(D) Technical evaluation plans.

(E) Technical evaluations of proposals.

(F) Cost or price evaluations of proposals.

(G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

(H) Rankings of bids, proposals, or competitors.

(I) Reports and evaluations of source selection panels, boards, or advisory councils.

(J) Other information marked as “source selection information” based on a case-by-case determination by the head of the agency, the head’s designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3727.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2101(1)	41:423(f)(5).	Pub. L. 93-400, § 27(f), as added Pub. L. 100-679, § 6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101-189, title VIII, § 814(a)-(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101-510, title XIV, § 1484(l)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102-25, title VII, § 705(i), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103-355, title VIII, § 8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104-106, title XLIII, § 4304(a), Feb. 10, 1996, 110 Stat. 662.
2101(2)	41:423(f)(1).	
2101(3)	41:423(f)(3).	
2101(4)	41:423(f)(4).	
2101(5)	41:423(f)(7).	
2101(6)	41:423(f)(6).	
2101(7)	41:423(f)(2).	

§ 2102. Prohibitions on disclosing and obtaining procurement information

(a) PROHIBITION ON DISCLOSING PROCUREMENT INFORMATION.—

(1) IN GENERAL.—Except as provided by law, a person described in paragraph (3) shall not

knowingly disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

(2) EMPLOYEE OF PRIVATE SECTOR ORGANIZATION.—In addition to the restriction in paragraph (1), an employee of a private sector organization assigned to an agency under chapter 37 of title 5 shall not knowingly disclose contractor bid or proposal information or source selection information during the 3-year period after the employee’s assignment ends, except as provided by law.

(3) APPLICATION.—Paragraph (1) applies to a person that—

(A)(i) is a present or former official of the Federal Government; or

(ii) is acting or has acted for or on behalf of, or who is advising or has advised the Federal Government with respect to, a Federal agency procurement; and

(B) by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information.

(b) PROHIBITION ON OBTAINING PROCUREMENT INFORMATION.—Except as provided by law, a person shall not knowingly obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3728.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2102(a)	41:423(a).	Pub. L. 93-400, § 27(a), (b), as added Pub. L. 100-679, § 6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101-189, title VIII, § 814(a)-(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101-510, title XIV, § 1484(l)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102-25, title VII, § 705(i), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103-355, title VIII, § 8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104-106, title XLIII, § 4304(a), Feb. 10, 1996, 110 Stat. 659; Pub. L. 107-347, title II, § 209(d)(4), Dec. 17, 2002, 116 Stat. 2930.
2102(b)	41:423(b).	

§ 2103. Actions required of procurement officers when contacted regarding non-Federal employment

(a) ACTIONS REQUIRED.—An agency official participating personally and substantially in a Federal agency procurement for a contract in excess of the simplified acquisition threshold who contacts or is contacted by a person that is a bidder or offeror in that Federal agency procurement regarding possible non-Federal employment for that official shall—

(1) promptly report the contact in writing to the official’s supervisor and to the designated agency ethics official (or designee) of the agency in which the official is employed; and

(2)(A) reject the possibility of non-Federal employment; or