

**Subchapter 3003.9 Whistleblower Protections for Contractor Employees****3003.901 Applicability.**

This subpart applies to all Components except the USCG. The USCG shall follow DHS Class Deviation Number 14-01, Deviation from Federal Acquisition Regulation 3.908, Pilot program for enhancement of contractor employee whistleblower protections, until the final HSAR rule to implement 10 U.S.C. 2409 for USCG is effective.

**3003.905 Reserved.****3003.906 Reserved.****3003.907 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (the Recovery Act).****3003.907-2 Reserved.****3003.907-3 Procedures for filing complaints.**

(c) Contracting officers who receive a complaint of reprisal of the type described in FAR 3.907-2 shall forward it to the DHS Office of Inspector General, Office of Investigations, and notify and coordinate with:

- (i) The Component HCA and Component legal counsel;
- (ii) If the complaint of reprisal applies to additional DHS contracts, the Component HCA responsible for those contracts; and
- (iii) If the complaint of reprisal applies to an order placed under another agency's contract, the contracting officer for the servicing agency contract.

**3003.907-6 Reserved.****3003.907-7 Contract Clause.**

Provide a notice in covered solicitations and contracts that the Recovery Accountability and Transparency Board has a poster available at <https://www.oig.dol.gov/recovery/arrawhistleblowers.htm> which the contractor may use to meet the posting requirements of FAR 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009.

**3003.908-9 Contracting Officer Responsibilities for Implementation of Contractor and Subcontractor Employee Whistleblower Protections.**

- (a) The contracting officer shall ensure that every solicitation issued and contract awarded on or after September 30, 2013 over the simplified acquisition threshold contains FAR clause 52.203-17 (dated SEPT 2013 or later) for other than commercial contracts or FAR clause 52.212-4 (dated SEPT 2013 or later) for commercial products or commercial services contracts. If the contract contains the latter clause with the SEPT 2013 date or later, it will include subparagraph (r) referencing the law which requires contractors and subcontractors to notify employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections.
- (b) The contracting officer shall inform the contractor about the contractor's responsibilities under FAR clause 52.203-17 (dated SEPT 2013 or later) or FAR clause 52.212-4 (dated SEPT 2013 through NOV 2021) either in a postaward conference or a postaward notice if a conference is not held. For additional information, see HSAM 3042.5.
- (c) Within 60 days of a contract award that contains FAR clause 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (dated SEPT 2013 or later) or FAR clause 52.212-4, Contract Terms and Conditions – Commercial Products and Commercial Services (dated SEPT 2013 through NOV 2021) or 52.212-4 Contract Terms and Conditions—Commercial Products and Commercial Services (dated DEC 2022 or later) that includes subparagraph (r), the contracting officer shall seek written confirmation (which may include email) from the contractor that they and their subcontractors, as applicable, have informed their employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections. The confirmation shall be maintained in the contract file.
- (d) In the event a contracting officer is contacted by a contractor or subcontractor employee about a potential violation of whistleblower rights and protections, the contracting officer shall refer the employee to the DHS Office of Inspector General at: <https://www.oig.dhs.gov/hotline>.