**DRAFT**

Mandatory Disclosure Policy

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# 1 Background

Doing business with the US Government (USG) entails unique compliance requirements not found with commercial customers. Mandatory Disclosure requirements are one such set of regulations. They are two distinct sets of requirements, one involving disclosures under revised suspension and debarment regulations, and another involving disclosures under a contract clause.

Suspension and debarment are two of the governments most effective enforcement tools. They are not meant to be punishment, but rather to prevent those the government believes to lack “present responsibility” from doing business with the government.

# 2 Purpose

The purpose of this policy is ensuring ABC Corp Employees do not have the right to remain silent but have an obligation and responsibility to raise any issue that could cause ABC Corp great harm such as suspension and debarment.

# 3 Scope/Limits

This policy applies to all ABC Corp businesses that perform on US Government (USG) contracts, that utilize cost or pricing data.

# 4 Definitions

**Cost or Pricing Data** – All facts that, as of the date on price agreement prudent buyers and sellers would reasonably expect to affect price negotiations[[1]](#footnote-1).

**Title 18 of the United States Code** – The Title of the US Code that captures Crimes and Criminal Procedures.

**False Claim** – When a contractor knowingly submits a false claim to the Government or a recipient of government funds, such as an upper tier contractor, or causes another to submit a false claim.

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# 4 Policy

1. It is ABC Corp Policy that employees understand the Mandatory Disclosure rules and understand that they cannot remain silent when they believe there has been a violation of Federal Criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act.
2. While this policy does not expect every employee to know the specifics of a law, we expect each employee to understand the concepts of fraud, conflict of interest, bribery, gratuity violations and False Claims. Employees shall be knowledgeable of the 2 distinct requirements within FAR for Mandatory Disclosure as shown below.
3. All new employees must take the Mandatory Disclosure training as a part of on-boarding. Existing employees’ manager and above that did not take the training as a part of on-boarding are required to take this training.

## Two Distinct Requirements within FAR

### Disclosures Under Suspension and Debarment Regulations

### **FAR 3.1003(a)(2)**

*Whether or not the clause at 52.203-13 is applicable, a contractor may be suspended and/or debarred for knowing failure by a principal to timely disclose to the Government, in connection with the award, performance, or closeout of a Government contract performed by the contractor or a subcontract awarded thereunder, credible evidence of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act.*

### **FAR 9.407-2(a)(8)**

*Knowing failure by a principal, until 3 years after final payment on any Government contract awarded to the contractor, to timely disclose to the Government, in connection with the award, performance, or closeout of the contract or a subcontract thereunder, credible evidence of-*

*(i) Violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code;*

*(ii) Violation of the civil False Claims Act (31 U.S.C. 3729-3733); or*

*(ii) Significant overpayment(s) on the contract, other than overpayments resulting from contract financing payments as defined in*[*32.001*](https://www.acquisition.gov/far/part-32#FAR_32_001)*;*

1. Disclosures Under Contract Clause

**FAR 52.203-13 - Contractor Code of Business Ethics and Conduct**

*(3) (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—*

*(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or*

*(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).*

1. FAR Part 2.101, 10 U.S.C 2306a(h)(1) and 41.U.S.C chapter 35 [↑](#footnote-ref-1)