

3.704 Policy.

(a) In cases in which there is a *final conviction* for any violation of 18 U.S.C. 201-224 involving or relating to contracts awarded by an agency, the *agency head* or designee, *shall* consider the facts available and, if appropriate, *may* declare void and rescind contracts, and recover the amounts expended and property transferred by the agency in accordance with the policies and procedures of this subpart.

(b) Since a *final conviction* under 18 U.S.C. 201-224 relating to a contract also *may* justify the conclusion that the party involved is not presently responsible, the agency *should* consider initiating *debarment* proceedings in accordance with subpart 9.4, Debarment, Suspension, and Ineligibility, if *debarment* has not been initiated, or is not in effect at the time the *final conviction* is entered.

(c) If there is a *final conviction* for an offense punishable under 41 U.S.C. 2105, or if the *head of the agency*, or designee, has determined, based upon a *preponderance of the evidence*, that the contractor or someone acting for the contractor has engaged in conduct constituting such an offense, then the *head of the contracting activity* shall consider, in addition to any other penalty prescribed by law or regulation-

(1) Declaring void and rescinding contracts, as appropriate, and recovering the amounts expended under the contracts by using the procedures at 3.705 (see 3.104-7); and

(2) Recommending the initiation of *suspension* or *debarment* proceedings in accordance with subpart 9.4.

Parent topic: Subpart 3.7 - Voiding and Rescinding Contracts