

## 3.104-3 Statutory and related prohibitions, restrictions, and requirements.

(a) Prohibition on disclosing *procurement* information (41 U.S.C. 2102).

(1) A person described in paragraph (a)(2) of this subsection *must not*, other than as provided by law, 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. (See 3.104-4(a).)

(2) Paragraph (a)(1) of this subsection applies to any person who-

(i) Is a present or former *official* of the *United States*, or a person who is acting or has acted for or on behalf of, or who is advising or has advised the *United States* with respect to, a *Federal agency procurement*; and

(ii) 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* ( 41 U.S.C. 2102). A person *must not*, other than as provided by law, 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.

(c) Actions required when an agency *official* contacts or is contacted by an *offeror* regarding non-Federal employment (41 U.S.C. 2103).

(1) If an agency *official*, *participating personally and substantially in a Federal agency procurement* for a contract in excess of the *simplified acquisition threshold*, contacts or is contacted by a person who is an *offeror* in that *Federal agency procurement* regarding possible non-Federal employment for that *official*, the *official must*-

(i) Promptly report the contact *in writing* to the *official's* supervisor and to the *agency ethics official*; and

(ii) Either reject the possibility of non-Federal employment or disqualify himself or herself from further personal and substantial participation in that *Federal agency procurement* (see 3.104-5) until such time as the agency authorizes the *official* to resume participation in that *procurement*, in accordance with the requirements of 18 U.S.C. 208 and applicable agency regulations, because-

(A) The person is no longer an *offeror* in that *Federal agency procurement*; or

(B) All discussions with the *offeror* regarding possible non-Federal employment have terminated without an agreement or arrangement for employment.

(2) A contact is any of the actions included as "seeking employment" in 5 CFR 2635.603(b). In addition, unsolicited communications from *offerors* regarding possible employment are considered contacts.

(3) Agencies *must* retain reports of employment contacts for 2 years from the date the report was submitted.

(4) Conduct that complies with [41 U.S.C. 2104](#) may be prohibited by other criminal statutes and the Standards of Ethical Conduct for Employees of the Executive Branch. See [3.104-2\(b\)\(2\)](#).

(d) Prohibition on former *official's* acceptance of *compensation* from a contractor ( [41 U.S.C. 2104](#)).

(1) A former *official* of a *Federal agency* may not accept *compensation* from a contractor that has been awarded a competitive or sole source contract, as an employee, officer, director, or consultant of the contractor within a period of 1 year after such former *official*-

(i) Served, at the time of selection of the contractor or the award of a contract to that contractor, as the procuring *contracting officer*, the source selection authority, a member of a *source selection evaluation board*, or the chief of a financial or technical evaluation team in a *procurement* in which that contractor was selected for award of a contract *in excess of \$10,000,000*;

(ii) Served as the program manager, deputy program manager, or administrative *contracting officer* for a contract *in excess of \$10,000,000* awarded to that contractor; or

(iii) Personally made for the *Federal agency* a decision to-

(A) Award a contract, *subcontract*, modification of a contract or *subcontract*, or a *task order* or *delivery order* *in excess of \$10,000,000* to that contractor;

(B) Establish overhead or other rates applicable to a contract or contracts for that contractor that are valued *in excess of \$10,000,000*;

(C) Approve issuance of a contract payment or payments *in excess of \$10,000,000* to that contractor; or

(D) Pay or settle a *claim in excess of \$10,000,000* with that contractor.

(2) The 1-year prohibition begins on the date-

(i) Of contract award for positions described in paragraph (d)(1)(i) of this subsection, or the date of contractor selection if the *official* was not serving in the position on the date of award;

(ii) The *official* last served in one of the positions described in paragraph (d)(1)(ii) of this subsection; or

(iii) The *official* made one of the decisions described in paragraph (d)(1)(iii) of this subsection.

(3) Nothing in paragraph (d)(1) of this subsection *may* be construed to prohibit a former *official* of a *Federal agency* from accepting *compensation* from any division or affiliate of a contractor that does not produce the same or similar *products* or services as the entity of the contractor that is responsible for the contract referred to in paragraph (d)(1) of this subsection.

**Parent topic:** [3.104 Procurement integrity](#).