

3.1101 Definitions.

As used in this subpart-

Acquisition function closely associated with inherently governmental functions means supporting or providing advice or recommendations with regard to the following activities of a *Federal agency*:

- (1) Planning *acquisitions*.
- (2) Determining what *supplies* or services are to be acquired by the Government, including developing statements of work.
- (3) Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.
- (4) Evaluating contract proposals.
- (5) Awarding Government contracts.
- (6) Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor *products* or services).
- (7) Terminating contracts.
- (8) Determining whether contract costs are reasonable, allocable, and allowable.

Covered employee means an individual who performs an *acquisition function closely associated with inherently governmental functions* and is-

- (1) An employee of the contractor; or
- (2) A subcontractor that is a self-employed individual treated as a *covered employee* of the contractor because there is no employer to whom such an individual could submit the required disclosures.

Personal conflict of interest means a situation in which a *covered employee* has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the Government when performing under the contract. (A *de minimis* interest that would not "impair the employee's ability to act impartially and in the best interest of the Government" is not covered under this definition.)

- (1) Among the sources of personal conflicts of interest are-

- (i) Financial interests of the *covered employee*, of close family members, or of other members of the *covered employee's* household;
- (ii) Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and
- (iii) Gifts, including travel.

(2) For example, financial interests referred to in paragraph (1) of this definition *may* arise from-

- (i) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
- (ii) Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);
- (iii) Services provided in exchange for honorariums or travel expense reimbursements;
- (iv) Research funding or other forms of research support;
- (v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
- (vi) Real estate investments;
- (vii) Patents, copyrights, and other intellectual property interests; or
- (viii) Business ownership and investment interests.

Parent topic: [Subpart 3.11 - Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions](#)