

3.104-2 General.

(a) This section implements [41 U.S.C. chapter 21](#), Restrictions on Obtaining and Disclosing Certain Information. Agency supplementation of [3.104](#), including specific definitions to identify individuals who occupy positions specified in [3.104-3\(d\)\(1\)\(ii\)](#), and any clauses required by [3.104](#) must be approved by the senior procurement executive of the agency, unless a law establishes a higher level of approval for that agency.

(b) Agency *officials* are reminded that there are other statutes and regulations that deal with the same or related prohibited conduct, for example-

(1) The offer or acceptance of a bribe or gratuity is prohibited by [18 U.S.C. 201](#) and [10 U.S.C. 2207](#). The acceptance of a gift, under certain circumstances, is prohibited by [5 U.S.C. 7353](#) and 5 CFR Part 2635;

(2) Contacts with an offeror during the conduct of an acquisition may constitute "seeking employment," (see Subpart F of 5 CFR Part 2636 and [3.104-3\(c\)\(2\)](#)). Government officers and employees (employees) are prohibited by [18 U.S.C. 208](#) and 5 CFR Part 2635 from participating personally and substantially in any particular matter that would affect the financial interests of any person with whom the employee is seeking employment. An employee who engages in negotiations or is otherwise seeking employment with an offeror or who has an arrangement concerning future employment with an offeror must comply with the applicable disqualification requirements of 5 CFR 2635.604 and 2635.606. The statutory prohibition in [18 U.S.C. 208](#) also may require an employee's disqualification from participation in the acquisition even if the employee's duties may not be considered "participating personally and substantially," as this term is defined in [3.104-1](#);

(3) Post-employment restrictions are covered by [18 U.S.C. 207](#) and 5 CFR parts 2637 and 2641, that prohibit certain activities by former Government employees, including representation of a contractor before the Government in relation to any contract or other particular matter involving specific parties on which the former employee participated personally and substantially while employed by the Government. Additional restrictions apply to certain senior Government employees and for particular matters under an employee's official responsibility;

(4) [parts 14](#) and [15](#) place restrictions on the release of information related to *procurements* and other contractor information that must be protected under [18 U.S.C. 1905](#);

(5) Release of information both before and after award (see [3.104-4](#)) may be prohibited by the Privacy Act ([5 U.S.C. 552a](#)), the Trade Secrets Act ([18 U.S.C. 1905](#)), and other laws; and

(6) Using nonpublic information to further an employee's private interest or that of another and engaging in a financial transaction using nonpublic information are prohibited by 5 CFR 2635.703.

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