

3.104-5 Disqualification.

(a) *Contacts through agents or other intermediaries.* Employment contacts between the employee and the *offeror*, that are conducted through agents, or other intermediaries, *may* require disqualification under 3.104-3(c)(1). These contacts *may* also require disqualification under other statutes and regulations. (See 3.104-2(b)(2).)

(b) *Disqualification notice.* In addition to submitting the contact report required by 3.104-3(c)(1), an agency *official* who *must* disqualify himself or herself pursuant to 3.104-3(c)(1)(ii) *must* promptly submit written notice of disqualification from further participation in the *procurement* to the *contracting officer*, the source selection authority if other than the *contracting officer*, and the agency *official's* immediate supervisor. As a minimum, the notice *must*-

(1) Identify the *procurement*;

(2) Describe the nature of the agency *official's* participation in the *procurement* and specify the approximate dates or time period of participation; and

(3) Identify the *offeror* and describe its interest in the *procurement*.

(c) Resumption of participation in a *procurement*.

(1) The *official must* remain disqualified until such time as the agency, at its sole and exclusive discretion, authorizes the *official* to resume participation in the *procurement* in accordance with 3.104-3(c)(1)(ii).

(2) After the conditions of 3.104-3(c)(1)(ii)(A) or (B) have been met, the *head of the contracting activity* (HCA), after consultation with the *agency ethics official*, *may* authorize the disqualified *official* to resume participation in the *procurement*, or *may* determine that an additional disqualification period is necessary to protect the integrity of the *procurement* process. In determining the disqualification period, the HCA *must* consider any factors that create an appearance that the disqualified *official* acted without complete impartiality in the *procurement*. The HCA's reinstatement decision *should be in writing*.

(3) Government officer or employee *must* also comply with the provisions of 18 U.S.C.208 and 5 CFR part 2635 regarding any resumed participation in a *procurement* matter. Government officer or employee *may* not be reinstated to participate in a *procurement* matter affecting the financial interest of someone with whom the individual is seeking employment, unless the individual receives-

(i) A waiver pursuant to 18 U.S.C.208(b)(1) or (b)(3); or

(ii) An authorization in accordance with the requirements of subpart F of 5 CFR part 2635.

Parent topic: 3.104 Procurement integrity.