

3.204 Treatment of violations.

(a) Before taking any action against a contractor, the *agency head* or a designee *shall* determine, after notice and hearing under agency procedures, whether the contractor, its agent, or another representative, under a contract containing the Gratuities clause-

(1) Offered or gave a gratuity (*e.g.*, an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended by the gratuity to obtain a contract or favorable treatment under a contract (intent generally *must* be inferred).

(b) Agency procedures *shall* afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person the agency presents. The procedures *should* be as informal as practicable, consistent with principles of fundamental fairness.

(c) When the *agency head* or designee determines that a violation has occurred, the Government *may*-

(1) Terminate the contractor's right to proceed;

(2) Initiate *debarment* or *suspension* measures as set forth in [subpart 9.4](#); and

(3) Assess exemplary damages, if the contract uses money appropriated to the Department of Defense.

Parent topic: [Subpart 3.2 - Contractor Gratuities to Government Personnel](#)