# 3.104-6 Ethics advisory opinions regarding prohibitions on a former official’s acceptance of compensation from a contractor.

(a) An *official* or former *official* of a *Federal agency* who does not know whether he or she is or would be precluded by 41 U.S.C. 2104 (see 3.104-3(d)) from accepting *compensation* from a particular contractor *may* request advice from the appropriate *agency ethics official* before accepting such *compensation*.

(b) The request for an advisory opinion *must* be *in writing*, include all relevant information reasonably available to the *official* or former *official*, and be dated and signed. The request *must* include information about the-

(1) *Procurement*(s), or decision(s) on matters under 3.104-3(d)(1)(iii), involving the particular contractor, in which the individual was or is involved, including contract or *solicitation* numbers, dates of *solicitation* or award, a description of the *supplies* or services procured or to be procured, and contract amount;

(2) Individual’s participation in the *procurement* or decision, including the dates or time periods of that participation, and the nature of the individual’s duties, responsibilities, or actions; and

(3) Contractor, including a description of the *products* or services produced by the division or affiliate of the contractor from whom the individual proposes to accept *compensation*.

(c) Within 30 days after receipt of a request containing complete information, or as soon thereafter as practicable, the *agency ethics official should* issue an opinion on whether the proposed conduct would violate 41 U.S.C. 2104.

(d)

(1) If complete information is not included in the request, the *agency ethics official may* ask the requester to provide more information or request information from other persons, including the source selection authority, the *contracting officer*, or the requester’s immediate supervisor.

(2) In issuing an opinion, the *agency ethics official may* rely upon the accuracy of information furnished by the requester or other agency sources, unless he or she has reason to believe that the information is fraudulent, misleading, or otherwise incorrect.

(3) If the requester is advised in a written opinion by the *agency ethics official* that the requester *may* accept *compensation* from a particular contractor, and accepts such *compensation* in good faith reliance on that advisory opinion, then neither the requester nor the contractor will be found to have knowingly violated 41 U.S.C. 2104. If the requester or the contractor has actual knowledge or reason to believe that the opinion is based upon fraudulent, misleading, or otherwise incorrect information, their reliance upon the opinion will not be deemed to be in good faith.

**Parent topic:** 3.104 Procurement integrity.