

Subpart 3.6 - Contracts with Government Employees or Organizations Owned or Controlled by Them

Parent topic: [Part 3 - Improper Business Practices and Personal Conflicts of Interest](#)

3.601 Policy.

(a) Except as specified in [3.602](#), a *contracting officer shall* not knowingly award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees. This policy is intended to avoid any conflict of interest that might arise between the employees' interests and their Government duties, and to avoid the appearance of favoritism or preferential treatment by the Government toward its employees.

(b) For purposes of this subpart, special Government employees (as defined in [18 U.S.C. 202](#)) performing services as experts, advisors, or consultants, or as members of advisory committees, are not considered Government employees unless-

- (1) The contract arises directly out of the individual's activity as a special Government employee;
- (2) In the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract; or
- (3) Another conflict of interest is determined to exist.

3.602 Exceptions.

The *agency head*, or a designee not below the level of the *head of the contracting activity*, may authorize an exception to the policy in [3.601](#) only if there is a most compelling reason to do so, such as when the Government's needs cannot reasonably be otherwise met.

3.603 Responsibilities of the contracting officer.

(a) Before awarding a contract, the *contracting officer shall* obtain an authorization under [3.602](#) if-

- (1) The *contracting officer* knows, or has reason to believe, that a prospective contractor is one to which award is otherwise prohibited under [3.601](#); and
- (2) There is a most compelling reason to make an award to that prospective contractor.

(b) The *contracting officer shall* comply with the requirements and guidance in [subpart 9.5](#) before awarding a contract to an organization owned or substantially owned or controlled by Government employees.