

Restrictions on Contact with Defense Contractors

SAGC-EF
22 May 2014

1. PURPOSE. To summarize the rules for contact with DoD Contractors.

2. FACTS.

a. Support contractor employees working in Army facilities as action officers, consultants, etc. are DoD contractors and prohibited sources to which all rules below apply.

b. Gifts. No employee may solicit or accept a gift:

1) From a prohibited source (DoD contractor is a prohibited source); or

2) Given because of the employee's official position.

3) The test for "official position" is whether the gift would have been solicited, offered, or given had the employee been other than a Federal employee.

Exceptions can be found in 5 C.F.R. § 2635.204, for example, a gift of a market value of \$20 or less, not to exceed \$50 in a calendar year from any one source.

c. Use of Non-Public Information.

1) Avoid unauthorized disclosure of information "not made available to the general public"

2) In the alternative, use a Freedom of Information Act (FOIA) standard. Avoid disclosing information "not authorized to be made available to the public on request"

3) Other bases for nondisclosure include the Privacy Act, Trade Secrets, and classified material.

d. Procurement Integrity.

1) Before the award of a government contract, a government official is prohibited from:

(a) Discussing employment with a competing contractor.

(b) Asking for or accepting a gratuity or other thing of value from a competing contractor.

(c) Disclosing contractor bid or source selection information to an unauthorized person. An unauthorized person is any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontractor, and anyone acting for that entity.

2) What is a "gratuity or other thing of value"?

(a) Gift, favor, entertainment, or other item having monetary value.

(b) Given directly or indirectly.

3) What is "contractor bid information"?

(a) Information contained in a bid, or proposal on cost, labor rates or proprietary information

(b) Clearly marked as such.

4) What is "source selection information"?

(a) Information for a procurement.

(b) Limited to:

(i) Bid prices before bid opening.

(ii) Proposed costs or prices.

(iii) Source selection plans.

(iv) Technical evaluation plans, or evaluation of programs.

(v) Cost or price evaluations.

(vi) Competitive range determinations.

(vii) Rankings of bids, proposals.

(viii) Reports of Source Selection Evaluation Board (SSEBs) or Source Selection Advisory Councils (SSACs).

(ix) Other information marked: "SOURCE SELECTION INFORMATION - See FAR 3.104"

e. The Appearance of Impropriety/Impartiality

1) Basic Rule - Avoid the Appearance of Favoritism.

2) What is done with one contractor should be done with other similarly situated contractors.