

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.](#)