

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](#)