

CHIEF'S EXECUTIVE TEAM MEETING

Ethics Aspects of Competitive Sourcing

Question 1: What do I need to know if my employees are involved in competitive sourcing?

Answer: The prohibitions against conflicting interests
The prohibitions against representation of another to the Federal Government
Post-employment restrictions

You need a basic understanding of these whether involvement is official or personal, or both.

Question 2: Can a current Federal employee bid or submit a proposal for a contract?

Answer: Yes.

Other Considerations: Federal Acquisition Regulations (FAR) prohibit the Government from awarding a contract to an employee except for the most compelling reasons.

Question 3: Can a group of employees (acting in their personal capacities) bid or submit a proposal for a contract?

Answer: Yes.

Other Considerations: (1) There may be restrictions on certain procurement officials that could restrict their involvement. [Includes members of Source Selection Boards.]

(2) A *group of employees* (acting in their personal capacities) seeking to bid or submit a proposal to NRCS for a competitive sourcing contract must get a non-employee to actually submit (i.e., transmit) their bid to NRCS, and to otherwise communicate with NRCS about their bid.

Question 4: Can a retired Federal employee bid or submit a proposal for a contract?

Answer: Yes, except there may be restrictions on certain former procurement officials.

Question 5: Can an employee help a friend, organization or company prepare a bid or proposal to get a competitive sourcing contract?

Answer: An employee can work “behind-the-scenes” *provided no compensation* is received. But, the employee must not communicate with the Government *on behalf of* that other person, etc.

Considerations: (1) The employee must not use *non-public* information.

(2) The employee must disqualify him or herself if personally and substantively involved with that same particular competitive sourcing matter in an official capacity.

Question 6: What is a post employment violation? What is not?

Answer: A post-employment violation occurs when all of the following are true:

1. A former employee contacts a current Federal employee;
2. The contact is on behalf of another with the intent to influence the current employee or Agency (or appears to be with the intent to influence);
3. The contact was with respect to a particular matter involving specific parties; and
4. The former employee was substantively involved with that same particular matter involving specific parties while still employed with NRCS (a lifetime ban); or the particular matter was under his/her area of responsibility within the last year of employment with NRCS (a two-year ban).

In addition, within one year of departing from a position at the SES 5 or 6 level, an employee must not communicate to, or appear before, a current USDA employee with the intent to influence, in connection with any matter on which the former executive seeks official action.

Question 7: Can an employee retire or leave Federal service and go directly to work for a company providing services to NRCS through Competitive Sourcing?

Answer: Yes, except for certain procurement officials.

Other Considerations: (1) For a period of one year, certain procurement officials who leave Federal service may not accept compensation from a company that has a contract with USDA or NRCS.

(2) Although any employee (who is not a procurement official) can leave and go directly to work for such a company, there may be restrictions against the former employee contacting a current employee on behalf of that company. See "Post-Employment Restrictions," above.

(3) There are restrictions on the official duties of a current Federal employee once she begins "seeking [outside] employment".

Question 8: Can an employee leave NRCS and then contact a current employee on behalf of a non-profit conservation group trying to get a competitive sourcing contract?

Answer: The answer depends on whether the employee was involved with, or had responsibility over, that competitive sourcing initiative, or was an SES 5 or 6 --

- "No" for all employees who worked personally and substantially on the same particular matter involving specific parties before leaving NRCS. (Lifetime ban)
- "No" for all employees whose area of responsibility included the same particular matter involving specific parties during their last year with NRCS, even though they did not work on the matter personally and substantively. (Two-year ban)
- "No" for the first year after an executive departs from a position at or above SES 5, even if the former executive was in no way connected to these matters.
- "Yes" for all other employees.