

Partnership Ethics 101

1. Government employees cannot:

a. receive or solicit anything of value in exchange for being influenced in the performance or non-performance of any official act, including giving testimony, or in exchange for committing any fraud.

b. receive or solicit compensation for any representational services rendered before a government agency in connection with a particular matter in which the United States is a party or has an interest.

c. participate personally and substantially in his or her official government capacity in any “particular matter” in which any of the following has a financial interest:

- 1) the employee,
- 2) the employee’s spouse,
- 3) the employee’s minor child,
- 4) the employee’s general business partner,
- 5) any organization in which the employee is serving as an officer, trustee, partner or employee; or
- 6) any person or organization with whom the employee is negotiating for nonfederal employment.

d. receive any salary, or any contribution to or supplementation of salary, as compensation for services he or she is expected to perform as an officer in the Executive Branch of the U.S. Government.

2. Unless specifically authorized by appropriate officials, an employee should not participate in a particular matter involving specific parties when:

a. the employee knows the matter is likely to have a direct and predictable effect on the financial interests of a member of his/her household; or

b. the employee believes that a reasonable person with knowledge of all the relevant facts would question his/her impartiality in the matter; and

c. the employee knows that someone with whom the employee has a “covered relationship” is a party or represents a party in the particular matter.

1) With whom does an employee have a “covered relationship?”

(a) Anyone with whom the employee has or seeks a business, contractual or other financial relationship other than routine consumer transactions (but not prospective future employers);

- (b) Members of the employee's household or relatives with close personal relationship;
- (c) Anyone with whom the employee's spouse, parent or dependent child is serving or seeking to serve as officer, director, trustee, general partner, agent attorney, consultant, contractor or employee;
- (d) Anyone for whom the employee has served in above capacity within the last year;
- (e) An organization in which the employee is an active participant.

Employees who are concerned about this prohibition may seek assistance of their supervisor, an ethics official or other authorized official. Authorization may be granted by an appropriate ethics official upon written determination that, in light of all relevant circumstances, the Government's interest in the employee's participation in the matter outweighs the concern that a reasonable person may question the integrity of the agency. After receiving an authorization, the employee cannot thereafter disqualify himself from participation in the matter on the same grounds that were the basis for the authorization.

3. An employee may not use appropriate funds to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence a member of Congress in any manner, on a matter of personal interest.
4. An employee is required to refrain from using their official position to further personal views by promoting or opposing legislation relating to programs of the Corps.
5. Employees acting entirely as private citizens have the right to petition Congress, either individually or collectively, on any subject. An employee's right to petition Congress, a member of Congress, or to furnish information to either house of Congress, shall not be interfered with or denied as long as the employee does it as a private citizen, on their own time, and with their own supplies or equipment.
6. Specific statutory lobbying prohibit affecting official duties are as follows:
 - a. Government employees can not use any part of the money appropriated by Congress to influence, in any manner, certain governmental individuals and entities to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy or appropriation. The specific individuals and entities who may not be influenced using appropriated funds are:
 - 1) a member of Congress
 - 2) a jurisdiction,
 - 3) an official of any state, local, or territorial government, or
 - 4) an Indian tribe.
 - b. This prohibition prevents employees from engaging in grass-roots lobbying campaigns directed at the public, using e-mails, letters or other forms of communication that expressly encourage the public to contact the specified individuals or entities on pending matters of the types identified above. The prohibition does not prevent, however:

- 1) good-faith responses to requests for information,
- 2) public statements that are strictly factual and devoid of positive or negative sentiment about pending matters, or
- 3) communications which, if prohibited, would in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence or national security activities.

Other Anti-lobbying Restrictions: An annual provision of a government-wide appropriation statute prohibits the use of appropriated funds for publicity or propaganda purposes (such as expenditures for grass-roots lobbying of the public) designed to support or defeat legislation pending before Congress.

7. As stated in Executive Order 12674, as a rule, federal employees may not, directly or indirectly, solicit, or accept a gift from:

- a. a prohibited source, or
- b. if it is given because of your official position.

This rule applies whether the federal employee is on duty or off duty. A gift may include but is not limited to a gratuity, favor, discount, cash, gift certificate, entertainment, hospitality, loan, forbearance, or other item of monetary value. It also applies to services as well as gifts of training, transportation, local travel, lodging and meals. A prohibited source includes any person, company, or organization that:

- a. has business with your agency,
- b. is seeking to do business with your agency,
- c. conducts operations that are regulated by your agency, or
- d. has any interests that may be affected by the performance or non-performance of your official duties.

A prohibited source may also include:

- a. any professional, technical or trade association, the majority of whose members represent prohibited sources; or
- b. an outside organizations which seeks to influence the Corps.

Some things are **excluded from the definition of a gift**. The following have been deemed **not** to be gifts:

- a. coffee, donuts, or other modest food items not offered as part of a meal;

- b. greeting cards, presentational plaques, certificates, or trophies;
- c. prizes in contests open to the general public;
- d. commercial discounts available to the general public or to all government employees;
- e. commercial loans, pensions, and similar benefits;
- f. anything for which you paid market price; or
- g. anything paid for by the government.

Exceptions to the Prohibition:

a. unsolicited gifts values at \$20 or less (market value), per occasion, from a single prohibited source. **However, gifts from any single prohibited source may not exceed \$50 in any given calendar year. You may not accept cash or other monetary instruments under any circumstances.**

b. waiver of conference fees or acceptance of meals when you are speaking at widely attended gatherings in your official capacity,

c. widely attended gatherings. When there has been a determination that your attendance is in the interest of the agency, you may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering,

d. discounts and similar benefits that are offered to the public, other groups that you belong to, or to all government employees,

e. gifts based on outside business or employment relationships,

f. awards and honorary degrees,

g. gifts from a political organization,

h. gifts based on a personal relationship.

8. Federal employees are prohibited from fundraising on government time or on government property. Corps employees are therefore restricted from any charitable fundraising in an official capacity unless the Office of Personnel Management (OPM) approves the charitable organization. At this time, the only charitable organization sanctioned by OPM is the Combined Federal Campaign. The rules governing acceptable fundraising activities by federal employees are contained in 5 CFR Part 950. Raffles, lotteries, bake sales, carnivals, athletic events, or other fundraising activities not specifically provided for by regulation are prohibited. The prohibition extends to activities such as Girl Scout cookie drives and sports tournament ladders where participants contribute money.

Non-federal partner entities are not similarly restricted from fundraising. These partners may fundraise on behalf of the partnership.

An employee may engage in fundraising activities as a private citizen, on their own time and away from the workplace, provided that the employee does not use their official title or position to further the fundraising event. Even when acting as a private citizen, however, an employee may not solicit funds or other support from subordinates or from prohibited sources. A limited exception exists for recognized employee organizations to conduct fundraising activities to benefit their members and their families. Finally, the fundraising restrictions pertain to the raising of funds, but not to campaigns for “in kind” donations such as food, clothing and toys. Such charitable drives are permissible but employees and management should make every effort to limit the amount of official time, space and equipment that are used to avoid negative impact on the work of the office.

Employees shall not use or permit the use of their government positions, titles, or any associated authorities to endorse any product, service, or enterprise except:

- a. in furtherance of statutory authority to promote products, services, or enterprises; or
- b. as a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency’s mission.

9. Employees may endorse any outside program in their private capacities; however, the endorsement may not make reference to their official titles or positions within the Corps.

10. Employees cannot accept any compensation other than their federal salary for official duty services they provide to partner organizations unless that compensation is from another federal agency.

11. Specific statutory authority must authorize construction projects on federal land. Construction projects are most often accomplished through the use of a procurement contract on the theory that such an activity is “for the benefit” of the Government. However, construction projects on Corps land may be performed through a partnership with a non-federal group in limited circumstances. Employees should be aware that construction projects raise a number of significant concerns and should be careful to ensure that they diligently perform all necessary analyses and obtain all appropriate approvals. Employees also must ensure that they consult with Office of Counsel before entering into a partnership involving construction on federal lands.

12. We will not enter into a partnership with an organization whose stated policy or mission is clearly contrary to the ethics of the Corps.

13. The Corps does not have authority to grant permanent rights to occupancy of federal land or buildings.

14. Government logos, marks, and symbols, such as seals, are generally for official use only. The Corps may approve a partner's use of its "logos," "marks" and "symbols" in appropriate circumstances. Only HQ Office of Counsel can approve the use of the Corps castle insignia. Approval for use of partner logos is delegated to local Office of Counsel staffs.

16. A partnership that involves the creation of a copyright, patent, or trademark will require consultation with HQ Office of Counsel.

Conflicting Outside Employment and Activities. (§ 2635.802)

An employee shall not engage in outside employment or any other outside activity that conflicts with his official duties. An activity conflicts with an employee's official duties:

a. If it is prohibited by statute or by an agency supplemental regulation; or

b. If, under the standards set forth in §§ 2635.402 and 2635.502, it would require the employee's disqualification from matters so central or critical to the performance of his official duties that the employee's ability to perform the duties of his position would be materially impaired.

Employees are cautioned that even though an outside activity may not be prohibited under this section, it may violate other principles or standards set forth in this part or require the employee to disqualify himself from participation in certain particular matters under either subpart D or subpart E of this part.

Example 1: An employee of the Environmental Protection Agency has just been promoted. His principal duty in his new position is to write regulations relating to the disposal of hazardous waste. The employee may not continue to serve as president of a nonprofit environmental organization that routinely submits comments on such regulations. His service as an officer would require his disqualification from duties critical to the performance of his official duties on a basis so frequent as to materially impair his ability to perform the duties of his position.

Example 2: An employee of the Occupational Safety and Health Administration who was and is expected again to be instrumental in formulating new OSHA safety standards applicable to manufacturers that use chemical solvents has been offered a consulting contract to provide advice to an affected company in restructuring its manufacturing operations to comply with the OSHA standards. The employee should not enter into the consulting arrangement even though he is not currently working on OSHA standards affecting this industry and his consulting contract can be expected to be completed before he again works on such standards. Even though the consulting arrangement would not be a conflicting activity within the meaning of § 2635.802, it would create an appearance that the employee had used his official position to obtain the compensated outside business opportunity and it would create the further appearance of using his public office for the private gain of the manufacturer.