

SUBJECT: Off-Duty or Employment Outside the Federal Government

1. **General.** Sometimes, Federal employees engage in off-duty or employment outside the Federal government – as part-time employment. Executive branch employees, subject to some limitations, are allowed to engage in outside employment. An employee may not have outside employment that conflicts with the official duties of the employee's position. An activity conflicts with official duties if (1) it is prohibited by statute or by the regulations of the employee's agency, or (2) the activity would require the employee to be disqualified from matters so central to the performance of the employee's official duties as to materially impair the employee's ability to carry out those duties. 5 CFR 2635.801-804. If you file a public (SF 278) or confidential (OGE Form 450) disclosure report, the Joint Ethics Regulation (JER), DoD 5500.7-R, requires you to seek permission from your Agency Designee for outside employment with a prohibited source. In most instances, the Agency Designee is your supervisor. See JER, § 3-306. Regardless of whether you are a financial disclosure report filer, to ensure that your off-duty or outside employment does not conflict with your duties or raise Procurement Integrity Act concerns, you should submit any project that concerns the Army or the DoD to your supervisor for his approval.

2. **Some Specific Restrictions.** The following conflicts of interest laws and regulations may limit your activities and you must keep these restrictions in mind at all times while engaging in any off-duty or outside employment.

a. **Avoid Conflicts of Interest.** You may not engage in off-duty employment or an outside activity that conflicts with your official duties. A conflict of interest arises if the activity requires your disqualification from matters critical to performance of your official duties. See 18 U.S.C. § 208. You must always be aware of the potential for a conflict of interest arising between your outside employment and your government duties. Any activity that could potentially interfere with your obligation to protect the government's interests, affect your objective judgment with regard to a business decision, or could reasonably bring discredit upon you or the Army creates a potential conflict of interest. See 5 C.F.R § 2635.101(b)(14).

b. **No Release of Non-Public Government Information.** You must always ensure that any specific knowledge you may have concerning the Army's current or future requirements is not divulged to a non-government entity. For example, you are precluded from using information gained during your employment with the Army that is generally not available to the public, (for example, proprietary or source selection information) if the use of that "inside" information would give you or anyone else an unfair financial or commercial advantage. Additionally, 18 U.S.C. §§ 793 and 794 protect and prohibit the use or disclosure of trade secrets, confidential business information, and classified information.

c. **No Use of Government Property/Time.** You are prohibited from using Government property or official time for other than authorized purposes.

d. **Avoid the Appearance of a Conflict of Interest.** You must remain sensitive to the underlying nature of any project you are assigned and the potential for the **appearance** of a conflict of interest if you work on any project for your non-Federal employer that involves Army or DoD activities. Accordingly, you should decline to work on any project that could have any involvement with Department of Army and carefully evaluate any DoD project on which you are asked to work, to ensure there is no relation to your Government employment. See 5 C.F.R. § 2635.502.

e. **No representing to the Federal Government.** You may not accept compensation for any representational services involving the Federal government. You may not share in any fees or bonuses collected as a result of you or another **representing a third party to the Federal government.** For example, if you engage in off-duty or outside employment with a consulting firm and the firm represents other non-Federal entities before the Government, then you are unable to accept any bonus or compensation tied to these representations. The representations may be made by other consultants or employees of the firm. You do not have to perform the representation for this ban to be applicable. The representations may be made to other Federal agencies as well as the Army or DoD. See 18 U.S.C. § 203.

f. You may not represent your civilian employer to the Federal government, which includes all employees of the Executive or Judicial Branches. You are precluded from interacting or appearing in the Federal workplace of any agency as you perform this employment. In other words, you should have no business-related contact with any Federal employee while you are performing work for your civilian employer. This restriction generally prohibits you from sending emails to, telephoning, or appearing before any Federal employee or officer. Also, you are prohibited from engaging in any activity that could be construed as seeking business from the Federal government for your outside employer or influencing a Federal government business decision that could affect your outside employer. See 18 U.S.C. § 205.

g. **Speaking, Teaching, and Writing.** You should be aware that you are prohibited from receiving compensation for teaching, speaking, or writing that "relates to the employee's official duties" (5 C.F.R. § 2635.807(a)). What is considered to relate to an employee's official duties is outlined in the ethics regulations and includes activities undertaken as part of an employee's official duties, circumstances in which the invitation to participate in the activity is extended because of the employee's official position or by a person who has interests that may be affected substantially by performance or nonperformance of the employee's official duties.

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h. **The Procurement Integrity Act (PIA) may also apply.** The PIA prohibits a wide range of actions focusing upon preventing unauthorized release of procurement sensitive information and not receiving compensation from a contractor for a matter involving that contractor in which an employee officially participated. The specific provisions of the PIA place a heavy burden upon Government employees who have access to information concerning government requirements to protect that information from disclosure. Therefore, you must always be aware of the procurement sensitive information to which you have access, and must ensure you do not release such information to any individual outside the federal government. See 41 U.S.C.A. §§ 2101 – 2107. The PIA and the JER carry significant administrative and criminal penalties, and could potentially expose individual Federal contracts to challenge by unsuccessful bidders.

3. Consult your servicing ethics counselor for further information.

Prepared by: RDECOM HQ Office of Chief Counsel