



KSC ANNUAL ETHICS BRIEFING 2008

OFFICE OF THE CHIEF COUNSEL



Ethics Officials at NASA

DESIGNATED AGENCY ETHICS OFFICIAL (DAEO)

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Routine Ethics Questions

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via E-Mail at: KSC-Ethics-Advisor



Question 1 - Gifts

Tara provided a tour of the center as part of her assigned duties, to the CEO of Busch Gardens. Tara receive a thank you letter from Busch Gardens. In the letter is four tickets to the amusement park, special VIP privileges, and a parking pass. Tara would like to accept the tickets. What may she do?

1. Accept the tickets.
2. Accept the tickets if you do not provide any future tours with Busch Gardens.
3. Accept the ticket if you reimburse Busch Gardens the face value of the tickets and the parking pass.





Question 1 - Gifts

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Accept the tickets if she reimburse Busch Gardens the face value of the tickets.



Gift Rule



Gifts from Outside Sources

Employees may not accept gifts given:

- a. By a prohibited source (such as a NASA contractor) or
- b. Due to the employee's official position

Note that it is never inappropriate and is frequently prudent to decline a gift.

The general rule is subject to some **exceptions**.



Is Busch Gardens a prohibited source?

- Prohibited source includes anyone
 - Seeking official action by NASA
 - Doing or seeking business with NASA
 - Regulated by NASA
 - Who has interests that may be substantially affected by your official duties.
- Busch Gardens is not a prohibited source because they do not do business with NASA.
- Tara provided the tour as part of her official position.



Are the tickets a gift?



- A "GIFT" may be any item of value:
(Cash, entertainment, travel, discounts, training)
- NOT GIFTS:
 - Snacks (coffee/donuts)
 - Anything for which you paid fair market value
 - Anything paid for by the government
 - Anything accepted by NASA under statutory authority
 - Any benefits or prizes open to public or all Government employees



Is there a Gift Exception?

- Gifts valued at **\$20** or under with annual max of **\$50** from each **prohibited source**
- Gifts based on a personal relationship
- Awards and honorary degrees
- Widely attended gatherings - need advance written determination by Agency Designee (Chief Counsel)
- Social invitations (not prohibited sources)
- Special law permits acceptance of gift worth up to **\$315** if it is from a foreign government



May Tara Accept the Tickets?

Because Tara was providing a tour as part of her official position no exception applies, Tara can accept the tickets only if she reimburses Busch Gardens the face value of the tickets and parking pass.



Question 2 - Gifts

You have been invited to a seminar on effective management techniques sponsored by the International Leadership Institute in Orlando. Recognizing no-cost training can be a gift, you smartly obtained approval to accept the free attendance. While there, however, you are invited to a follow-on meeting hosted by UCF for senior executives in the science and technology fields. All attendees are offered tickets to a Golden Knights game later in the evening (\$45). Can you accept the ticket without reimbursing UCF?

1. Yes, because the ticket is offered to all meeting attendees, it is not a prohibited gift.
2. No, because UCF is a prohibited source, the ticket is a prohibited gift.
3. Yes, if you bribe the Chief Counsel to issue you a WAG determination covering the game.



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No, because UCF is a prohibited source, the ticket is a prohibited gift.



Question 3 - Conflicts

You have been “offered” the duty of working on the Source Selection Evaluation Board (SEB) for a the a new Constellation project contract at KSC. The bidders are Boeing, USA, and Rocketdyne. You have a retirement 401 account with your former employer, Boeing. Can you perform this duty while you have the retirement account?

1. No, because you would be participating in a matter in which you have a financial interest.
2. Yes, but only if you don't anyone that you the 401 account.
3. Yes, the ethics regulation contains a *de minimis* exemption for up to \$30,000 of stock.



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No, because you would be participating in a matter in which you have a financial interest.



Conflicts of Interest

The general rule is located in a criminal statute,
18 U.S.C. § 208, and states:

An employee may not participate

- Personally and substantially
- In a particular matter
- In which they have an interest or an imputed interest



Imputed Interests

Interests imputed to the employee (i.e., considered to be the employee's own interests) include those of a:

- Spouse
- Minor child
- General partner
- Organization or entity for which the employee serves as officer, director, trustee, general partner or employee
- A person with whom the employee is seeking employment



Exemptions and Waivers

Exemption - An exemption exists in the Federal regulations for aggregate interests in securities (i.e., stocks) with a total value of less than \$15,000. NASA policy prohibits employees from participating in NASA procurements if they own any securities in bidding companies.

Waivers - Waivers may be available in some cases if the Agency determines that an interest is not so substantial as to be likely to affect the integrity of services that the Government may expect from the officer or employee. **Waivers must be signed by the NASA Administrator.**



Is there a conflict?

Yes. You would have a direct responsibility for selecting the contractor, meaning you would be participating personally and substantially in the contract.

Ownership of stock or retirement account in a company affected by the contract is a financial interest in the contract.



What are your options?

You may be able to:

- Decline the offer of participating on the source evaluation board;
- Divest the conflicting interest in Boeing; or
- Obtain a waiver to allow you to participate in the source evaluation board.



Question 4 – Outside Activities

Your daughter has recently become engaged. After weeks of discussing wedding plans, you are willing to pay anything to avoid any more wedding talk. This means you will need a second job. You find a part-time job with a local consulting firm, but learn it has contracts with NASA. You are not involved in any of these contracts. May you take the job?

1. No, Government employees are not permitted to engage in outside employment.
2. Yes, provided you perform no duties for the firm that involve NASA contracts.
3. No, outside employment with any NASA contractor is prohibited.



Question 4 – Outside Activities

Your daughter has recently become engaged. After weeks of discussing wedding plans, you are willing to pay anything to avoid any more wedding talk. This means you will need a second job. You find a part-time job with a local consulting firm, but learn it has contracts with NASA. You are not involved in any of these contracts. May you take the job?

Yes, provided you perform no duties for the firm that involve NASA contracts.



Outside Activities

Employees may not engage in outside activities that conflict with their official duties. A conflict exists if

- a. the activity is prohibited by law or
- b. the employee's ability to perform his or her duties would be materially impaired.

NASA regulations prohibit outside employment:

- With a NASA contractor, subcontractor, grantee on work performed by that entity for NASA.
- With a party to a Space Act agreement in connection with the work performed under that agreement.



Outside Activities

NASA regulations do not prohibit, but require prior approval for:

- Teaching, speaking, writing, or editing, unless on a topic of private interest
- Practice of a profession or rendering professional consulting services
- Management or conduct of a business in which the employee or his/her spouse has an ownership interest
- Holding a state or local public office
- Work with a NASA contractor, subcontractor, grantee, or party to a Space Act agreement
- Serving as an officer, trustee, or member of a board or similar body for a for-profit organization or for a non-profit that is a prohibited source
- Employment that involves the practice of a NASA-owned invention



Can you take the job?

NASA's supplemental ethics regulations require that you seek and obtain prior administrative approval before engaging in outside employment with a NASA contractor, subcontractor, or grantee.

If approved, you could work part-time for the firm provided your duties are not connected with any work the firm performs for NASA.



Question 5 – Board Participation

Randy, a Biological Engineer at KSC, has been asked by the Titusville Chamber of Commerce to be a voting member of the Board of Directors in his official capacity as a NASA employee. NASA is interested in working with the local Chambers to build a good space coast business relationship. May he accept the seat on the board in his official capacity?

1. Yes, there is a significant NASA interest, negating any potential conflict of interest by your accepting a seat on the board.
2. No, you may not be a member of the board, but you can act as a NASA liaison to it.
3. Yes, only if the Chamber of Commerce is not a prohibited source.



Question 5 – Board Participation

Randy, a Biological Engineer at KSC, has been asked by the Titusville Chamber of Commerce to be a voting member of the Board of Directors in his official capacity as a NASA employee. NASA is interested in working with the local Chambers to build a good space coast business relationship. May he accept the seat on the board in his official capacity?

No, you may not be a member of the board, but you can act as a NASA liaison to it.



Board Participation (Official Capacity)

Official Board Membership
Generally, not permitted

- *Official Liaison to the Board*
- *Honorary or Advisory Board Membership*



Board Participation (Personal Capacity)

Non-Official Board Membership in Personal Capacity –

- Offer not based on employee's official position
- Must act outside scope of their official positions
- Do not allow use of official title or position

Employees should seek official approval for service on a Board in a personal capacity under NASA's regulation (5 C.F.R. 6901) for outside activities. Need to submit an a KSC Form 2-244NS to the Office of the Chief Counsel for approval.



Can You Serve on the Board?

No, not in your official capacity, but you could offer the alternative of acting as a NASA liaison to the Board.

You should ensure the board understands you are not accepting a seat on the board, but will participate in its activities as an advisor on behalf of NASA. There are also restrictions on the use of your name/title/NASA affiliation (e.g., no endorsement, fundraising, lobbying).



Question 6 – Teaching, Speaking, and Writing

Jerry, a aerospace engineer, received a request to teach an evening course on Aerospace Engineering at the University of Central Florida. In addition, the University asked him to speak at a colloquium of engineering students and talk about NASA's current missions and how engineers are needed. May he accept \$2500 for the course and \$500 for the colloquium?

1. Yes, NASA employees are entitled to additional compensation when performing outreach activities.
2. Yes, if the University is not a prohibited source.
3. Yes, for the course only, assuming you give the course in your personal capacity.





Question 6 – Teaching, Speaking, and Writing

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Yes, for the course only, assuming you give the course in your personal capacity.





Compensation for Activities that Relate to Official Duties

Employees may not accept compensation from a source outside the Government for teaching, speaking, or writing that relates to their official duties.

Includes writings that deal with an ongoing or announced policy, program, or operation of the agency.

Also, 18 U.S.C. § 209 prohibits you from accepting compensation from a source other than the U.S. Government for the performance of your duties.



Exceptions

Exception for:

- matters within employee's discipline or area of expertise that are based on his/her educational background or experience.



Can he accept the compensation?

Yes – for teaching aerospace engineering course (general subject within your discipline or area of expertise)

Must seek outside employment approval.

No – no compensation for lecture on upcoming NASA missions (deals with ongoing Agency programs and operations)



Question 7 – Political Activity

Paula, a NASA engineer, has taken an interest in the Presidential election process this year and as part of that she set up a political blog so that she could express her views about the parties involved. She set up the blog at home. Paula used her Government work computer and email address to notify all of her friends about the blog. Can she do this?

1. Since this is a website you set up personally, there are no issues with distributing the URL at work from your Government email address.
2. You can participate in the blog but you must do it on your own time and your own computer.
3. This is a internet Hatch Act violation and Peter could be fired, suspended, or fined.





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This is a internet Hatch Act violation
and Peter could be fired, suspended, or fined.



Hatch Act



Prohibits Federal employees from engaging in partisan political activity (not non-partisan activities)

- While on official duty
- In any room or building in which Federal employees or officers perform official work.
- While wearing a uniform or official insignia
- Using any vehicle owned or leased by the Government to drive to a partisan political activity.



Hatch Act



In addition, employees may not:

- Use official authority or influence to interfere with an election
- Solicit, accept, or receive political contributions
- Knowingly solicit or discourage the political activity of someone who has business before the Agency
- Be a candidate for public office in partisan election.



Hatch Act and SES

Career SES employees also may not work on campaigns where any of the candidates are running as representatives of a partisan political party.

For example, a Career SES employee may not campaign for or against a candidate in a partisan election.

Career SES may make a campaign contribution in a partisan election.



Can you get political?

No – may not distribute campaign flyers at work

Yes – may make the campaign contribution

key point: Don't participate in partisan political activities while on duty!



Question 8 – Seeking Employment

You were involved in the Preliminary Phases of the development of the follow on contracts for KSC's largest project management services contract. It expired at the end of 2008, about the same time you plan to retire. You would like to work part-time with one of contractors, Flintstone Associates. Can you discuss with them now about any consultant positions that may be available on the follow-on contract?

1. No, once you have participated in a contract involving Flintstone in your Federal capacity, you can never accept employment with this company.
2. No, unless you recuse yourself from this contract and any other matters involving Flintstone.
3. Yes, as long as you limit your discussions to the follow-on contract.



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No, unless you recuse yourself from this contract and any other matters involving PMI.



Seeking Employment

When you engage in a conversation with a contractor about potential employment after you leave the government, you are considered to be seeking employment with that company. This means you are considered to have a financial interest in the company for purposes of the conflict of interest rules. This is the same as if you had purchased stock in the company.



Seeking Employment

Prior to opening employment discussions, **disqualify** yourself from any matters that could affect the company.

If you receive an unsolicited communication, there are two approaches:

1. **Disqualify** yourself and stop working on NASA matters that might affect the company.
2. **Clearly reject** the employment opportunity.
(Can't tell company you might be interested later.)

Once you reject, you may continue to participate in official matters at NASA.



Is there a conflict?

Once you engage in a discussion regarding potential employment, you have a financial interest in any matters, like the project management services contract, that affect the company.

Providing input into the Preliminary Phase of the follow-on contract is personal and substantial participation in the new awarded contract.

If you engage in this discussion and continue to participate in the contract, you will have a criminal conflict of interest.



Post-Government Employment

When considering future employment, you should also be aware of two categories of restrictions on post-Government employment:

- criminal representational restrictions and
- procurement integrity restrictions.
- **If you are thinking about retiring or leaving the Government and going to work for a NASA Contractor – you need to have an Opinion from the Office of the Chief Counsel. Come talk to us!**



Post-Government Employment

Representational Restrictions (18 U.S.C. 207)

- **Lifetime Ban (Personal and Substantial Participation):** for any matters in which you personally participated.
- **Two Year Ban (Official Responsibility):** for supervisors and Matters pending under official responsibility during last year.
- **One Year "Cooling Off" period:** for Senior Employees.



Post-Government Employment

Procurement Integrity Restrictions

Cannot work for a company for one year if worked on **\$10 million contract** at NASA as:

- Procuring contracting officer (CO)
- Source Selection Authority or member of SEB
- Chief of financial or technical evaluation team
- Program manager (PM), Deputy PM, or administrative CO
- Decision-maker to award the contract, modification, subcontract, task order or delivery order or establish rates or settle a claim in excess of \$10 million.



Misuse of Position

Proper Use of Official Time and Authority in accordance with the Standards of Ethical Conduct for Employees of the Executive Branch – Subpart G

- Use of public office for private gain;
- Use of nonpublic information;
- Use of Government property; and
- Use of official time.



Misuse of Position

NASA and Other Policies related to Proper Use of Official Time and Authority

NPD 2540.1F, Personal Use of Government Office Equipment Including Information Technology

NPR 2810.1, Security of Information Technology

Office of Management and Budget Memorandum 04-26 - "Personal Use Policies and File Sharing Technology" and

NPR 1900.3A, Ethics Program Management; and

NPD 1900.9D, Ethics Program Management



Public Office for Private Gain

- Have you ever seen your colleagues run to the pharmacy or play computer games on duty time? Do they surf the Internet for personal reasons or make copies of their income tax forms? Do people make numerous personal phone calls during working hours using their Government telephones?
- Does your boss ask his/her assistant to do personal errands (unrelated to work) for him/her during working hours?



Public Office for Private Gain

What should you do to report these violations?

- Don't ask, don't tell--keep quiet; you may need to access these same "conveniences" on occasion.
- Report the information to appropriate authorities, such as a supervisor, an ethics official, or even your agency's Inspector General.
- Use Government equipment and time as necessary to conduct your own investigations because it is your responsibility to curtail waste, fraud, and abuse; the Government moves too slowly and rarely takes appropriate actions anyway.



Public Office for Private Gain

Report the information to appropriate authorities, such as a supervisor, an ethics official, or even your agency's Inspector General.



Use of Government property

- As a Government employee, you are authorized to use Government property in performing your job. You should know and understand what materials, supplies, vehicles, and hardware are required for completing your assigned tasks.
- It is your duty to protect and conserve Government property and not to use it or to allow its use for other than authorized purposes.



Use of Government property

- NASA has an NPD 2540.1F, Personal Use of Government Office Equipment Including Information Technology, that covers the personal use of Government property.
- Limited personal use of Government office equipment should not take place during the employee's scheduled work time, with limited exceptions including brief exchanges of information with doctors' offices, car repair shops, child care facilities, and schools during their establishment's regular office hours.
- Government Equipment includes but not limited to:
 - Personal computers and related peripheral equipment and software
 - Library resources
 - Telephones and wireless communications devices (cell phones, BlackBerries, pagers, etc.)
 - Facsimile machines, photocopiers, office supplies
 - Internet connectivity and access to Internet services
 - Government E-mail addresses



Use of Government property

- Mary, an employee of the Department of Defense, had car trouble yesterday and her car is at the garage. She needs to check with the mechanic to see what is wrong and see how much the repairs will cost. She especially wants to know if her car will be ready today. Can she make that call during duty time?



Use of Government property

- **NASA has authorized** this type of call, Mary is permitted to make certain personal calls on duty time. Typically, employees may make calls if they can't be made any other time, are of reasonable duration, and don't adversely interfere with their professional duties. These calls might include checking on a sick child, making a medical appointment, or a brief call to the garage as in this example.



Appearance of Governmental Sanction

Employees are prohibited from using or allowing the use of their Government position or title or any authority associated with their public office in a manner that could reasonably be construed to imply that NASA or the Federal Government sanctions or endorses their personal activities or those of another.



Appearance of Governmental Sanction

You may sign letter of recommendation on NASA letterhead and with your official title IF:

- You have personal knowledge of person's ability and character, which you obtained in the course of your Federal employment, OR
- You are recommending the person for Federal employment.



Can you help?

Can you write a letter of recommendation on letterhead and using your official title for

- A foreign national who is applying for a VISA to work for NASA?
 - Yes, but only if you know of their qualifications personally.

- An acquaintance at church who wants a Government job?
 - No, your knowledge of his skills and abilities came from your personal relationship with them.



General Principles of Public Service

EMPLOYEE RESPONSIBILITIES UNDER EXECUTIVE ORDER 12674 (as amended)

DO:

- Place loyalty to the Constitution, the laws, and ethical principles above private gain. Public Service is a public trust.
- Act impartially to all groups, persons, and organizations.
- Give an honest effort in the performance of your duties.
- Protect and conserve Federal property.
- Disclose fraud, waste, and abuse, and corruption to appropriate authorities.
- Fulfill in good faith your obligations as citizens, and pay your Federal, State, and local taxes.
- Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap.



General Principles of Public Service

DO NOT:

- Use your public office for private gain.
- Use nonpublic information to benefit yourself or anyone else.
- Solicit or accept gifts from persons or parties that do business with or seek official action from NASA (unless permitted by an exception).
- Make unauthorized commitments or promises that bind the government.
- Use Federal property for unauthorized purposes.
- Take jobs or hold financial interests that conflict with your Government responsibilities.
- Take actions that give the appearance that they are illegal or unethical.



Congratulations!

You have successfully completed your Annual Ethics Briefing!

Name and Date

Please print, sign and date this page and return* it to the Chief Counsel's Office.

*You may return the signed, dated acknowledgment page to the KSC Office of the Chief Council in person at HQ Room 2408, via mail at Mail Code CC-A, via fax at (321) 867-1817, or as a PDF file via e-mail to KSC-Ethics-Advisor@mail.nasa.gov .