

http://www

Ethics News Corner

June 2008
Volume 1 Issue 2

Office of Research Services
Office of Management Analysis & Review (OMAR)
Ethics Service Center
Building 31, Room 2B37 301-402-3570

Consulting Services to a Law Firm

INSIDE THIS ISSUE

- 1 Consulting Services to a Law Firm
- 2 Procurement Integrity Act
- 3 Crossword Puzzle
Challenge – General
Things You Should Know
About Ethics
- 4 Reminder -When to File an
HHS 717-1
- 4 Upcoming Events

Are there special rules or guidance about providing consulting services to a law firm? Yes. It is very important to think through exactly what your “consulting” involves in terms of activities. Consulting to a law firm is always an outside activity and requires approval in advance on an HHS-520 Outside Activity Form.

When you file the HHS-520 requesting approval you must remember that the law firm’s client is the final recipient of your consulting services. In describing the consulting service on the HHS-520 it is necessary to thoroughly disclose the client’s name. If you don’t include the client’s name and any other relevant facts related to the client and case in question then a conflict of interest analysis cannot be completed.

I maintain a private medical practice. What if I want to provide this “consulting service” in my private capacity as a health care provider?

This is prohibited without approval through the HHS-520 filing process. NIH policy states that consulting to a law firm can, under no circumstances, be treated as part of your outside health practice.

How can I accept a retainer to cover my continued availability as needed to consult to a law firm?

Because we need to know who the client is, you can’t. Such an arrangement would constitute “continuing consulting for a law firm.” Employees must seek/receive permission in advance for each case in which they would be involved. For example:

- **Expert testimony** is a short-hand term for “service as an expert witness.” The term is broad enough to cover providing a written report (especially where that report, by rule or custom, will be shared with opposing counsel), appearing for a deposition, or otherwise providing information or testimony under oath, when the employee is not a fact witness.
- **Consulting with a law firm** is a fairly preliminary activity and should not involve written reports or opinions. Law firms often consult as they formulate their theory of a case, identify issues, etc. These consultations are typically verbal, although the physician or other professional may have reviewed paper records before having the discussion with the attorney.

For more detailed guidance, please see this topic on the NIH Ethics Program website at: <http://ethics.od.nih.gov/topics/legal-consult.htm>

*More information about consulting
with a law firm at:
[http://ethics.od.nih.gov/topics/legal-
consult.htm](http://ethics.od.nih.gov/topics/legal-consult.htm)*

*Outside activities are approved via
the Form HHS 520 in NEES at:
<https://nees.nih.gov/>*

Procurement Integrity Act

The Procurement Integrity Act (41 USC 423) contains some ethics provisions. For general procurement questions, contracting, and other similar questions, please contact your administrative office. The following is a summary of what employees may, or may not, do while engaged in procurement related activities.

Government employees who serve personally and substantially in procurement activities **cannot do the following**:

1. Seek employment with a competing contractor during the procurement process;
2. Solicit anything or accept a gift over \$20.00 in value per event and \$50.00 per calendar year from any representative or consultant of a competing contractor;
3. Disclose any proprietary or source selection information to any unauthorized person before the award of the contract (this provision applies to anyone with access to the selection information); or
4. Receive any compensation from the contractor for one year from the date of the selection or award, last date served in the procurement or program position, or date decision was made, whichever is the latest, if the employee served in certain roles in relation to a contract valued in excess of \$10 million. The employee may accept compensation from another division of the contractor's company if that division does not produce the same or similar products or services as provided in the contract with the Federal agency.

Non-government contractors or other non-appointed consultants cannot disclose any proprietary or source selection information to an unauthorized person before the award of the contract. Please note this provision applies to anyone with access to the information.

The *Ethics & Procurement Integrity* pamphlet can be viewed and printed at: http://www.usoge.gov/pages/forms_pubs_otherdocs/fpo_files/booklets/bkprocurementintegrity_07.pdf

For more information about the ethics provisions of the Procurement Integrity Act, visit the link to the left or contact your OMAR Ethics Specialist.

The NIH Ethics program is administered to help ensure the decisions made by NIH employees are not, nor appear to be, tainted by any question of conflict of interest.

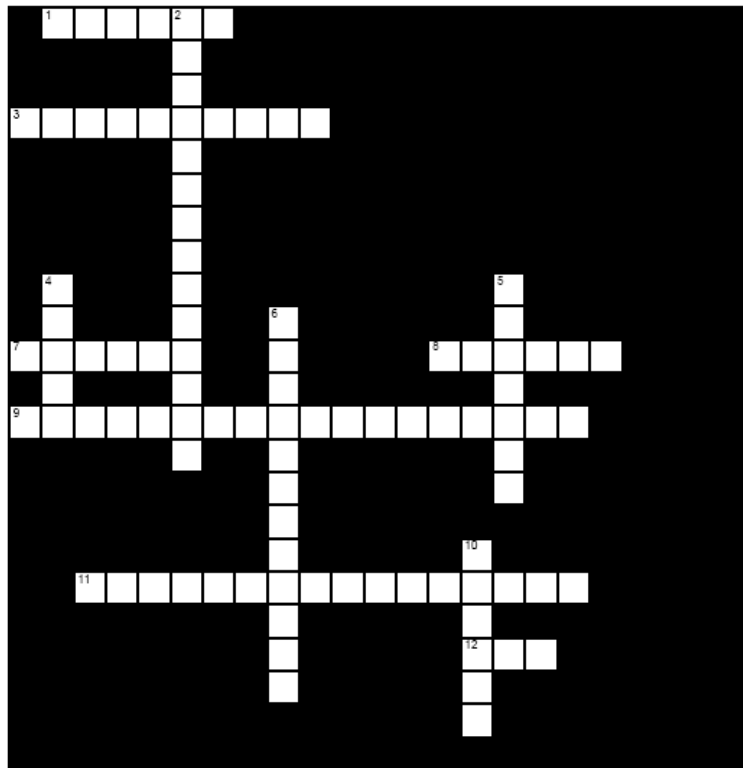
More information on the Procurement Integrity Act at:
<http://ethics.od.nih.gov/Topics/procure.htm>

Crossword Puzzle Challenge: General Things You Should Know About Ethics

You play a part in making your agency an ethical workplace. To do this, you need to appreciate how the ethics program works in your agency and the Federal Government. This crossword puzzle provides an opportunity to test your understanding of the ground rules on ethics.



U.S. Office of Government Ethics General Things You Should Know About Ethics Employee Crossword Puzzle



This crossword puzzle can be found online at:

http://www.usoge.gov/pages/comp_web_trng/comp_web_trng.html

The answers to this crossword puzzle can be found at:

http://www.usoge.gov/pages/comp_web_trng/cwt_puzzles/general_07/general_puzzle_answers_final_prnt.pdf

Across

- 1. Violating the standards of conduct can get you fired; breaking a conflict of interest law can get you _____
- 3. When a situation is not specifically covered by the standards of conduct, check your behavior against the 14 general _____

- 7. This group trusts you to serve their best interests
- 8. Once you receive advice, _____ it
- 9. The name of the rules that tell you what you can and cannot do ethically: 3 wds
- 11. Office that investigates you when you violate the standards: 2 wds

- 12. This U.S. agency establishes ethics policy for the executive branch: abbr.

Down

- 2. See this person when you have an ethics question: 2 wds
- 4. Public service is a public _____
- 5. One goal of the ethics program is to strengthen the ethical _____ in your agency

- 6. The highest law of the U.S. and you are to pledge your loyalty to it
- 10. Seek ethics advice _____ you take action on something that might involve an ethics issue

www.usoge.gov

Reminder – When to File a Confidential Report of Financial Interests in Substantially Affected Organizations (HHS-717-1)

The HHS Supplemental Financial Disclosure Reporting regulation at 5 CFR 5502 requires NIH employees to inform their ethics office within 30 days after acquiring a financial interest in a substantially affected organization (SAO). This requirement applies to the following employees:

- all employees who file the SF-278 Public Financial Disclosure Report
- all employees who file the OGE-450 Confidential Financial Disclosure Report
- all employees designated as a clinical investigator, regardless of whether they are required to file the SF-278 or OGE-450. Clinical investigators are defined as those employees who participate in clinical protocols, whose names are listed on the Clinical Research Protocol Initial Review Application form NIH 1195.

If you fall in any category above, you must report when you acquire a new financial interest in an SAO. This includes SAO holdings that are acquired through purchase, inheritance, gift, or any other means of acquisition. You must disclose this information on form HHS-717-1 Confidential Report of Financial Interests in Substantially Affected Organizations for Employees of the NIH. The form is available on the NIH Ethics Program website: <http://ethics.od.nih.gov/forms.htm#fd>

Note that when you submit the HHS-717-1, you must report **ALL** of your interests in SAOs, not just the newly acquired one. (See instructions on page 2 of the form). Those who work on protocols will be asked to update your values when a protocol is being reviewed. The update may be done via e-mail. The form is required only when you acquire a new holding, including via marriage or inheritance or purchase of additional shares of an SAO through a dividend reinvestment plan. You are not required to report sales other than to indicate that the value is zero when asked to update your values during protocol review.

Upcoming Events

Please make note of these important dates:

Annual Ethics Training - TBD

JUNE						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

JULY						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

OMAR Ethics Service Center

Building 31, Room 2B37
Bethesda, MD 20892

Phone:

301-402-3570

Fax:

301-594-9522

Staff:

Director, OMAR - Genia Hess Bohrer (bohreg@ors.od.nih.gov)

ORS, ORF Specialist - Dave Brightwell (brightwd@ors.od.nih.gov)

CIT, NIBIB Specialist - Kimberly Cuzzo (cuozzok@mail.nih.gov)

NIA, NCCR Specialist - Anne Frost (frosta@mail.nih.gov)

Visit us on the web at <http://omar.ors.od.nih.gov/ethics.htm>