

Things to avoid when establishing private sector partnerships

1. Endorsing the products or services of the partner organization in your official capacity.

Federal employees may not endorse the products or services of private organizations nor may private organizations use appropriated funds to advertise. Such activities may result in the misuse of public office for private gain. The provision on private gain refers to anyone's private gain NOT just the Federal employee's private gain. See 5 CFR 2635.

2. Soliciting funds or donations for your programs from partner organizations without specific statutory authority. Fund raising for Federal programs is prohibited unless authorized by law. There must be specific statutory authorization for agencies to solicit money or other gifts that will supplement appropriated funds. In addition, there must be specific statutory authority to accept voluntary donations of money and other gifts. Both of these actions result in supplementation of appropriations which, by law, requires that supplementation may occur only when authorized by Congress.

3. Create an organization to do what your own agency cannot do and then enter into a partnership with it.



Under 31 U.S.C. 9102, a Federal agency may establish or acquire a corporation to act as an agency only by or under a law of the United States specifically authorizing the action.

4. Accept any compensation other than your Federal salary for official duty services you provide to partner organizations unless that compensation is from a Federal agency. Why is this prohibited?



18 U.S.C. 209, prohibits dual compensation for services provided by Federal employees. In other words, only the United States can pay you for work that you do as a Federal employee.

5. Use appropriated money to pay for lobbying activities to be performed by a partner. Why is this prohibited?



18 U.S.C. 1913, prohibits the use of appropriated funds to lobby Congress except through established official Federal agency channels and the procedures sanctioned by the Office of Management and Budget.

6. Control or assume any measure of practical responsibility for the fund raising activities of private individuals or organizations who are partners.

Executive Order 12674 prohibits employees from fund raising by provisions that prohibit any actions that result in or create the appearance of: using public office for private gain (meaning anyone's private gain), losing independence or impartiality or affecting adversely the confidence of the public in the integrity of the Government.

If you have any questions regarding any of these prohibitions and their applications, you should seek the advice of your servicing ethics counselor, a staff member of the Solicitor's Office or the Department Ethics Office on (202) 208-7960.

Additional information on this or other ethics topics may be obtained from the Department Ethics Web Site at:

www.doi.gov/ethics/ethics.html

Department Ethics Office

“Making ethics a part of the workplace”



Establishing Partnerships With Private Organizations

Ethics Considerations



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ESTABLISHING PARTNERSHIPS WITH PRIVATE ORGANIZATIONS

Recent Department of the Interior initiatives have stressed the use of partnerships with other Federal agencies and with private sector organizations as a desirable way to enhance the operations of our programs.

Why ethics considerations are important

Federal employees are public servants. Because of this, laws, regulations and policies are developed to assure the public that Federal employees will not engage in any actions that create or appear to create an impropriety. Violations of ethics laws or regulations may subject Federal employees to civil and/or criminal penalties as well as removal from office. Partnership arrangements can also result in conflicts with the requirements of appropriations laws.

Federal rules on fundraising and solicitation also apply to the establishment of partnerships. Refer to 5 CFR 2635.

To avoid violation of the ethics provisions, the information in this pamphlet is intended to serve as a guide for Department employees who are involved in private sector partnerships.



Things to do when establishing private sector partnerships

1. Prepare a written partnership agreement. The agreement should contain the objectives of the partnership. It should state the policy on endorsements and advertising and the responsibilities of each partner. The agreement should state the benefits the Department can expect from the partnership activities.

2. Have employees who are officers in partner organizations recuse (disqualify) themselves from any involvement as a Federal employee in particular matters in which that partner organization has a financial interest. Why is this necessary?

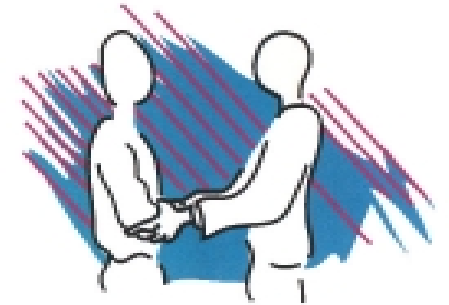


When an employee is serving as an officer in a private organization, 18 U.S.C. 208, prohibits that employee from working on particular matters in which the private organization has a financial interest. Under this law, the term *organization* includes academic, non-profit, tax exempt as well as profit making organizations. The term *officer* means President, Vice-President, Secretary, Treasurer, Trustee, Director, Ex-Officio officers or directors and any other position with a fiduciary duty to the organization.

Example: An employee who is an officer in a private society that wishes to swap land with the Federal Government, may not work on the land swap issue in his or her Federal employment capacity at a time when he or she is an officer in the outside organization that has a financial interest in the matter.

This law, 18 U.S.C. 208, also provides for an exception under certain circumstances. In order for a Department of the Interior employee to qualify for such an exception, the

employee's situation must satisfy the conditions in the law (18 U.S.C. 208(b)), and it must be approved by the Designated Agency Ethics Official.



3. Authorize official time for employees to work on the joint effort for which the partnership was established. Why is this necessary?



Provisions in 18 U.S.C. 205, prohibit Federal employees from representing anyone other than the United States before a Federal agency or court in connection with a particular matter in which the U.S. is a party or has a direct and substantial interest. Representing can mean any type of contact; even a telephone call, if the contact is made with an intent to influence the agency or court on a particular matter.

Example: This law prohibits a Federal employee who is on his or her own time from representing a non-profit, tax, exempt organization before any Federal agency in an attempt to influence, the employees of that agency on some issue pending before them. It makes no difference what position is taken. However, if the employee was working under an approved partnership agreement as a part of his or her official duties, he or she would be representing the interests of the U.S. and there would be no violation of this statute.