

Ethics and Integrity in the Contingency Environment

Overview

The need to meet and maintain high ethical standards and procurement integrity is always and critically important for Department of Defense (DoD) Contracting Officers (CO).

However, this requirement can be even more challenging in the deployed environment where command/customer expectations and the business habits of the suppliers with whom you will be dealing may be affected by varying cultural, political, and economic conditions.

The pressures to meet mission requirements can be even more intense at a deployed location. If you are not vigilant, these pressures can cloud your judgment as to the "right" way to conduct yourself and represent the United States and DoD.



Objective

After completing this lesson, you will be able to identify the basic tenets of ethics and integrity as they apply to you, the Contingency Contracting Officer (CCO).



Ethics and Integrity in the Contingency Environment, Cont.

Two major responsibilities of CCOs include:

- Effectively communicating government/customer requirements to the vendor base and contractor
- Establishing solid working relationship with suppliers

Nevertheless, you must always maintain impartiality when conducting official business.

Most suppliers in the contingency environment, particularly where American forces have an established presence, understand and respect the ethics and integrity related restrictions placed on DoD COs.

However, CCOs may encounter situations where they are offered souvenirs to take home with after a tour, or even a welcome gift upon arrival; either in good faith or in a possible attempt to gain favor. In these cases, it is important to understand what can and cannot be accepted.



Gift Prohibition

CCOs should already be aware of the overarching rule about accepting gifts from contractor employees:

Federal employees are prohibited from soliciting or accepting gifts offered "because of the employee's official position" or gifts offered by a "prohibited source."

A prohibited source can be a company doing business or seeking to do business with the federal government. This includes contractors, even partnering contractors.

See Code of Federal Regulations [5 CFR 2635.202\(a\)](#) for more details.



Gift Prohibition, Cont.

There are two notable exceptions to the previously stated rule that are relevant to you as a CCO.

- A. You may accept gifts from a prohibited source with a face value up to \$20 per single occasion. But any gifts from the same source may not exceed \$50 in value per calendar year. Additional details and hypothetical scenarios can be found at 5 CFR 2635.204(a).
- B. When in a foreign area you are permitted to accept food, refreshments or entertainment in the course of a breakfast, luncheon, dinner or other meeting or event if the following conditions are met [5 CFR 2635.204(i)(1)-(4)]:

[Click here to view the conditions.](#)

Note: the conditions referenced above RARELY apply to the CCO during their duties.



Gift Prohibition, Cont.

There are two notable exceptions to the previously stated rule that are relevant to you as a CCO.

A. You may receive a gift of meals, refreshments or entertainment if the market value of the gift is less than the per diem rate for the foreign area specified in the U.S. Department of State's Maximum Per Diem Allowances for Foreign Areas.

B. When invited to a meeting or event by non-U.S. citizens or by representatives of foreign governments or other foreign entities, attendance at the meeting or event is part of the employee's official duties to obtain information, disseminate information, promote the export of U.S. goods and services, represent the United States or otherwise further programs or operations of the agency or the U.S. mission in the foreign area.

[Click here to](#)

Note: the cost of the gift must be paid for by the foreign government or other foreign entity during their trip.

Conditions

- The market value in the foreign area of the food, refreshments or entertainment provided at the meeting or event, as converted to U.S. dollars, does not exceed the per diem rate for the foreign area specified in the U.S. Department of State's Maximum Per Diem Allowances for Foreign Areas
- There is participation in the meeting or event by non-U.S. citizens or by representatives of foreign governments or other foreign entities
- Attendance at the meeting or event is part of the employee's official duties to obtain information, disseminate information, promote the export of U.S. goods and services, represent the United States or otherwise further programs or operations of the agency or the U.S. mission in the foreign area
- The gift of meals, refreshments or entertainment is from a person other than a foreign government



Gift Prohibition, Cont.

There are additional exceptions to those stated on the previous page, but the two listed are those that will most likely be applicable to a CCO.

Gifts of any type should never be solicited regardless of their nature or dollar value. If you are in doubt of what constitutes an acceptable gift, consult your organization's ethics advisor or simply decline the item with a gracious explanation why it cannot be accepted.

The U.S. Office of Government Ethics also has useful information on [Gifts From Outside Sources](#).

The best advice for CCOs is to ALWAYS avoid even the remotest appearance of impropriety! Therefore it is a best practice not to accept any gifts from vendors even if the dollar value is below the acceptable limit as described previously.



Interaction with Contractor Employees

CCOs who interact with contractor employees on a daily basis must keep in mind that contractors are not Government employees.

The terms and conditions of the contract define the obligations of each party and the contractor's performance requirements.

It is important to understand that U.S. Federal and DoD Standards of Conduct do not apply to contractor employees. With this in mind, CCOs must take care not to:

- Interfere in contractor-employee relations
- Tell contractors:
 - Whom to hire, fire, or promote
 - To perform work outside the scope of the performance work statement
 - To work prior to the obligation of funding
 - To reassign contractor employees
 - To establish specific hours of duty or to grant and deny leave requests
 - To discipline their employees



Interaction with Contractor Employees, Cont.

Professional friendships are not prohibited. However, CCOs must act impartially, and show no favoritism or preferential treatment. Although personal friendships are not prohibited, they may cause the appearance of conflict of interest.

Government employees cannot personally make recommendations and references for contractors, except when providing past performance information to other agencies.

In the deployed contingency environment; it is not uncommon for local contractors and vendors to ask for "Certificates of Appreciation". These might typically have: unit crests, the name of the task force, pictures of flags, etc. The CCO needs to understand the rules behind this type of recognition and truly utilize good judgment and discretion. Being able to show good will and help win the hearts-and-minds of the local populace while maintaining complete compliance with acquisition rules and procedures is required. Local vendors are often extremely honored to receive these certificates may display them proudly at their business office. The balance is stay compliant with [DoD 1400.25M](#) and FAR/DFARS Subparts [42.15](#) and [242.15](#).



Interaction with Contractor Employees, Cont.

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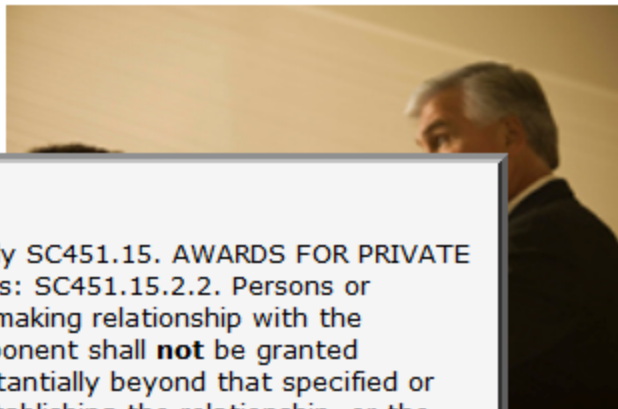
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DoD 1400.25M

DoD 1400.25-M, December 1996, specifically SC451.15. AWARDS FOR PRIVATE CITIZENS AND ORGANIZATIONS which reads: SC451.15.2.2. Persons or organizations having a commercial or profitmaking relationship with the Department of Defense or with a DoD Component shall **not** be granted recognition, unless the contribution is substantially beyond that specified or implied within the terms of the contract establishing the relationship, or the recognition is clearly in the public interest.



Identifying Indicators of Fraud

Identifying Indicators of Fraud

Fraud is the intentional presentation of falsehoods as truth with the goal of causing someone to part with something of value under false pretenses.

Violators can receive punishments of prison time from 5 to 10 years and/or receive fines from up to \$250,000. Contracting and procurement fraud schemes involve:

- Product substitution
- [Defective cost or pricing data](#)
- Cost mis-charging
- Price fixing
- Fabrication of records
- Bribes, gratuities and kickbacks
- Government employee collusion and fraud
- [Individual fraud](#)

CCOs are required to report any suspected violations or wrong-doings to their organization's chain of command.



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- Cost or pricing data submitted with contractor cost proposals that are inaccurate, incomplete, or noncurrent.
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CCOs are
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Individual Fraud

This includes time and attendance abuse and false claims (as on travel vouchers and worker's compensation claims).

Combating Human Trafficking

The policy of the United States is to vigorously attack the worldwide problem of human trafficking by using law enforcement methods, diplomacy, and other tools. All departments of the U.S. Government have been directed to take a **zero tolerance** policy towards human trafficking.

There are specific implications for the CCO. [FAR Subpart 22.17](#) provides policy applicable to ALL acquisitions. CCOs should also check the DFARS for any additional policy.

Furthermore, CCOs should determine if there are Combatant Commander General Orders or other directives that may affect their contracting actions at the deployed location.

Most likely you will take Combatting Trafficking in Human Persons (CTIP) training prior to your deployment. Additional guidance, policy and procedures can be found at [DFARS PGI 222.17](#).



Lesson Summary

In this lesson, you identified the basic tenets of ethics and integrity as they apply to the CCO.



Knowledge Review

A supplier in the contingency location presents you with a welcoming gift that is valued at approximately \$15. According to the Code of Federal Regulations, can you accept it?



Yes



No

Check Answer



Yes. An exception to the prohibition against accepting gifts is when the item is valued at no more than \$20, as long as the total of all gifts for the calendar year from the giver does not exceed \$50. However, you should first check any agency regulations that may apply to you.

Knowledge Review

Which one of the following is generally permissible for the CCO to direct the contractor to do?

- ☐ Begin work prior to the obligation of funding
- ☐ Discipline a particularly poor-performing employee
- ☒ Cease work on a portion of the performance work statement
- ☐ Establish procedures for granting and denying leave requests

Check Answer



The CCO is permitted to direct the contractor to **cease work on a portion of the performance work statement.**

Lesson Completion

You have completed the content for this lesson.

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