

Introduction

Approximate Length: 30 minutes

Welcome to the **Ethics and Integrity** lesson.

Upon completion of this lesson you will be able to answer this question:

- What Are the Ethical Responsibilities of CORs and Procurement Personnel?

[Review the lesson learning objectives.](#)



Print Version

For a printer friendly version of this lesson, select the icon on the left or use the Print menu in the upper right corner of the screen.

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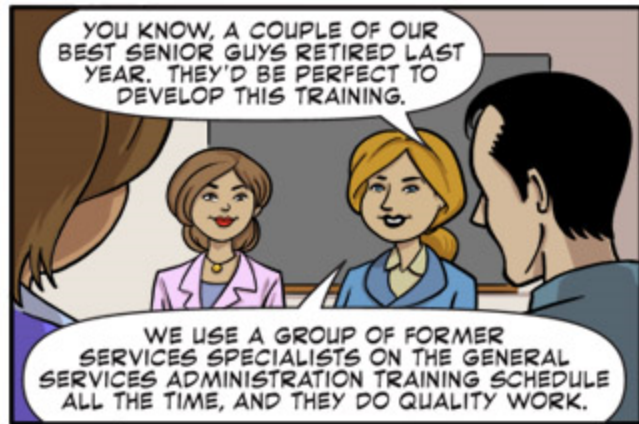
- Recognize ethics regulations that pertain to the conduct of procurement personnel.
- Identify the CORs ethical responsibilities.



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What Are the Ethical Responsibilities of CORs and Procurement Personnel?



What Are the Ethical Responsibilities of CORs and Procurement Personnel?

Long Description

Conversation between Dick, Mary, Jane and June.

Dick: You know, a couple of our best senior guys retired last year. They'd be perfect to develop this training.

Jane: We use a group of former services specialists on the General Services Administration training schedule all the time, and they do quality work.

Jane: I would absolutely recommend them.

Mary: Have they done anything of this scope before?

Jane: I am not sure, but they can handle it.

June: Well if they can't, my brother works for a contractor who has a training development team. We can just call him.

Dick: Looks like we've got our short list. Why don't we just start with these guys and pick the best one?

Mary: Slow down folks. We've got a lot of planning work to do, and I'm sure John will have something to say about the ethics of this of your suggestions.

Standards of Conduct

Contracting with the Government and official participation by the employee in matters in which he/she has a financial interest are two major prohibitions applicable to Government contracting. [18 U.S.C. Section 208\(a\)](#) prohibits officers and employees from participating "personally and substantially" in particular matters in which such employees or organizations in which they serve or with which they are negotiating for prospective employment have a financial interest.

Other ethics resources include:

- [U.S. Office of Government Ethics](#) - Ethics laws pertaining to procurement and contracting, conflict of interest, gifts and travel and others look at the compilation of Federal Ethics Laws prepared by the United States Office of Government Ethics
- [Joint Ethics Regulation](#) - Ethics information tailored to the Department of Defense employees
- [DAU Ethics](#) - Acquisition, Technology and Logistics (AT&L) Ethics Best Practices Clearing House



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Other ethics resources

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- [U.S. Office of Government Ethics](#) - Image of two men standing and talking in front of a government building. pertaining to conflict of interest, gifts and travel and others look at the compilation of Federal Ethics Laws prepared by the United States Office of Government Ethics
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Financial Disclosure

[Contracting Officer's Representatives \(CORs\)](#) must provide a [financial disclosure statement](#) annually so that any potential conflicts of interest can be identified.

Moreover, for contracts valued over \$10 million, procurement integrity regulations prohibit certain Government officials from accepting employment for one year from a contractor on whose contract the Government official has participated in personally and substantially.

Any COR who is unclear as to whether he/she is prohibited from accepting compensation from a contractor should seek advice from his/her agency ethics official.

The request for an advisory opinion must be submitted in writing, and include all information reasonably available which may be judged relevant to the inquiry.



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Long Description

Image of glasses placed on a book with the word "integrity" enhanced.



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Contracting Officer's Representative (COR)

"Contracting officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the contracting officer to perform specific technical or administrative functions.

Procurement Integrity

If you are involved in the planning and evaluating of contractor proposals, you may be subject to the requirements of the Procurement Integrity Act (as implemented by [FAR 3.104](#)). This Act and similar statutes and regulations impose stringent requirements related to safeguarding the contractor's proprietary data and other integrity issues.

Violation of these requirements can result in civil or criminal penalties. It is important for you as a COR to familiarize yourself with the prohibitions and certification requirements cited in the Procurement Integrity Act and any other statutes or regulations that may pertain to your specific acquisition. If you have any questions regarding procurement integrity, be sure to consult your Agency's legal counsel.

The following integrity points should be taken into consideration.

[Pre-Solicitation](#)

[Requirements Documents](#)

[Proposal Confidentiality](#)

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Pre-Solicitation

Allowing contractors access to information on a particular acquisition (especially the specification or work statement) before such information is available to the business community at large may give the contractor(s) receiving the information an unfair advantage.

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Requirements Documents

Writing an unnecessarily restrictive specification or work statement that effectively excludes the products or services of a contractor or increases the prospects for award to a specific contractor is unfair. Not only does this give unfair advantage to one or more contractors, but it restricts competition and makes it more likely that the Government will overpay.

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Proposal Confidentiality

Occasionally, requests for information are received concerning proposals before a contract is awarded. All information concerning the proposals, including the number received and the offerors' identities, must be held in strict confidence. Should this information become available to one or more offerors, it could put other offerors at a distinct disadvantage. Moreover, proprietary data remains confidential.

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 up to \$250,000. Contracting and procurement fraud schemes involve:

- Product Substitution
- Defective Pricing
- Cost Mis-charging
- Price Fixing
- Fabrication of Records
- Bribes, Gratuities and Kickbacks
- Government Employee
- Collusion and Fraud
- [Individual Fraud](#)



You have an obligation to report any suspected violations or wrong-doings. You should report your suspicions to your organization's chain of command.

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Individual Fraud

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Federal Criminal Statutes and Associated Penalties

CORs are charged with ensuring the Government gets the supplies and services they pay for. Unfortunately, some CORs get involved with fraudulent activity and are prosecuted.

These are the related Federal Criminal Statutes and their penalties:

- Bribery of Public Officials - 18 USC 201 (3 x amount embezzled and/or 15 years)
- Conspiracy to Defraud the U.S. - 18 USC 371 (5 years)
- Conspiracy with Respect to Claims - 18 USC 286 (10 years)
- Conflicts of Interest - 18 USC 207/208 (5 years)
- Fraud and False Statements - 18 USC 1001 (5 years)
- Extortion and Threats - 18 USC 872 (3 years)
- Embezzlement/Public Records - 18 USC 641 (10 years)
- Laundering of Monetary Instruments - 18 USC 1956 (2 x amount embezzled and/or 20 years)
- Mail Fraud - 18 USC 1341 (5 or 30 years)
- Fraud by Wire - 18 USC 1343 (5 years imprisonment) (5 or 30 years)



It's not worth it, so don't do it!

Gift Prohibition

One of your biggest responsibilities as a COR is to effectively communicate your Agency's need to the contractor and establish a solid working relationship. Notwithstanding that, you must always maintain impartiality when conducting official business.

Following are two key points to remember:

- 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.
 - Details: [Code of Federal Regulations 5CFR2635.202\(a\)](#)
- Although the Office of Government Ethics Regulations allows you to accept gifts from a prohibited source up to a total of \$50 per year, any gifts on a single occasion must not exceed \$20 in value. For example, the face value of a football ticket (say, \$50) is the market value, so the ticket cannot be accepted as a gift.
 - Details: [Code of Federal Regulations 5CFR2635.204\(a\)](#)

Favoritism



Alicia's organization had to formally nominate her in a letter to the KO. The letter included Alicia's qualifications, performance history, training certificates, and any other relevant information. Finally, the KO had to review the nomination letter, verify Alicia's qualifications and training, and issue an appointment letter to be acknowledged by Alicia and forwarded to the appropriate parties.

Professional friendships are not prohibited. However, you 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 make recommendations and references for contractors, except when providing past performance information to other Agencies.

You must be cautious and vigilant to avoid any situations that may give the "wrong appearance".

When in doubt, avoid the situation and contact your [Contracting Officer \(KO\)](#).



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You
"W

Contracting Officer (KO)

WH
Co

Service member or Department of Defense civilian with the legal authority to enter into, administer, modify, and/or terminate contracts.



Ethics and Integrity Review Exercise

Read the following background information, which concludes the story about Ms. Jackson and Major Langley. When you are you finished, click next to answer the review questions.

In May, Ms. Scott, a senior procurement analyst for the Contracts Directorate, found a letter in her in-box with instructions from her supervisor to "look into this situation." The letter was from the Defense Finance and Accounting Service (DFAS) stating that DFAS had received an invoice from MWR for \$6,000.00; however, DFAS had no record of a contract or purchase order, and the invoice did not refer to one.

Ms. Scott checked with the KO for base procurements and learned that MWR had not apprised her of a requirement for a facilitator, and there was no contract or purchase order for this requirement.

Ms. Scott met with Major Langley and Ms. Jackson. Major Langley insisted that Ms. Jackson had done nothing wrong and stated that she acted with his approval on his behalf for virtually all of MWR's needs.

Further investigation by Ms. Scott revealed that the facilitator hired by Ms. Jackson was her brother-in-law who was also the pastor of her church, who just happened to be certified to facilitate XYZ's training module.

Knowledge Review

Ms. Jackson could have just gone straight to the KO and requested that this work go to her brother in law, the Pastor of her church, and it would have been ok to use him as a facilitator for the training.

[Ethics and Integrity Review Exercise](#)

☐ True

☒ False

Check Answer



Correct answer: **False.** Ms. Jackson's decision to hire her brother-in-law/pastor as the training facilitator gives the appearance of favoritism and preferential treatment. Even if she had gone to the KO first, it would still be a conflict of interest if the KO had not opened it up for competition.

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Ethics and Integrity Ethics and Integrity Review Exercise

- ☐ True
- ☒ False
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☐ Check

Ms. Scott met with Major Langley and Ms. Jackson. Major Langley insisted that Ms. Jackson had done nothing wrong and stated that she acted with his approval on his behalf for virtually all of MWR's needs. Further investigation by Ms. Scott revealed that the facilitator hired by Ms. Jackson was the pastor of her church who just happened to be certified to facilitate XYZ's training module.

Correct. The training facilitator gives the appearance of favoritism and preferential treatment. Even if she had gone to the KO first, it would still be a conflict of interest if the KO had not opened it up for competition.

Knowledge Review

As the case of the investigation of Ms. Jackson further unfolds, it came to the attention of Ms Scott (the senior procurement analyst for the Contracts Directorate) that on another facilitation contract, Ms. Jackson sent a contractor a copy of the Statement of Work (SOW) before it was released to the business community.

Since the contractor normally does business with MWR on these types of contracts, and the SOW is typically the same each time, it is not an issue.

[Ethics and Integrity Review Exercise](#)

☐ True

☒ False

Check Answer

Correct answer: **False.** Allowing contractors access to any information, especially the specification or work statement, before such information is available to the business community at large may give the contractor receiving the information an unfair advantage.

Knowledge Review

As the case of the investigation of Ms. Jackson further unfolds, it came to the attention of Ms Scott (the senior procurement analyst for the Contracts Directorate) that on another facilitation contract, Ms. Jackson sent information to the business community.

Ethics and Integrity Review Exercise

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[Ethics and Integrity](#)

☐ True. Ms. Scott checked with the KO for base procurements and learned that MWR had not apprised her of a requirement for a facilitator, and there was no contract or purchase order for this requirement.

☒ False. Ms. Scott met with Major Langley and Ms. Jackson. Major Langley insisted that Ms. Jackson had done nothing wrong and stated that she acted with his approval on his behalf for virtually all of MWR's needs. Further investigation by Ms. Scott revealed that the facilitator hired by Ms. Jackson was the pastor of her church who just happened to be certified to facilitate XYZ's training module.

Check Answer

Correct answer: **False**. Allowing contractors access to any information, especially the specification or work statement, before such information is available to the business community at large may give the contractor receiving the information an unfair advantage.

Lesson Summary

Congratulations! You have completed the **Ethics and Integrity** lesson.

Select the item for the summary of the topic.

[What are the ethical responsibilities of CORs and Procurement Personnel?](#)

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What Are the Ethical Responsibilities of CORs and Procurement Personnel?

The following are the key ethical obligations of a COR and other procurement personnel?:

- Officers and employees are prohibited from participating "personally and substantially" in particular matters in which the employee or the organizations in which they serve are negotiating for prospective employments have a financial interest.
- CORs must provide a financial disclosure statement annually so that any potential conflicts of interest can be identified.
- Fraud is the intentional presentation of falsehoods as truth with the goal of causing someone to part with something of value under false pretenses.
- Federal employees are prohibited from soliciting or accepting gifts offered "because of the employee's official position" or gifts offered by a "prohibited source."
- Although personal friendships are not prohibited, they may cause the appearance of conflict of interest.

Lesson Completion

You have completed the content for this lesson.

To continue, select another lesson from the Table of Contents on the left.

If you have closed or hidden the Table of Contents, click the Show TOC button at the top in the Atlas navigation bar.