



# Outside Employment

## Frequently Asked Questions

November 2016

### GENERAL QUESTIONS

#### 1. Am I required to receive Service approval to accept a second job, conducted during my off-duty time, with a non-Federal employer?

**A:** It depends on what the job is and who you will work for. Generally, you must receive advance written approval from both your supervisor and an ethics counselor to conduct paid or unpaid employment for a “prohibited source.” Several Service manual chapters provide guidance on this topic. For information about serving as an officer or board member of a non-Federal organization, see [212 FW 4, Participating in Professional Societies and non-Federal Organizations](#). For information about teaching at a university, see [212 FW 11, Adjunct or Affiliate Status with Universities and Research Institutes](#). For all other outside employment or activity questions see [212 FW 5, Outside Employment or Activity](#). Additional information regarding these ethics rules may be found on the [Office of Government Ethics \(OGE\) website](#).

#### 2. What is a “prohibited source”?

**A.** A “prohibited source” is any person, company, or organization that:

- has business with the Service,
- is seeking to do business with the Service,
- conducts operations that are regulated by the Service,
- has any interests that may be substantially affected by the performance or nonperformance of your official duties, or
- is an organization a majority of whose members are described above.

If you are uncertain whether a person, company or organization is a “prohibited source”, contact your ethics counselor. *Examples of “prohibited sources”* include a local government, a mining company, an environmental group, a refuge friends group, and a company that has a contract to provide computers to the Service.

#### 3. Under what circumstances would the Service deny my request to accept a second job with a non-Federal employer?

**A:** The Department of the Interior (DOI) regulations include a presumption that outside employment requests will be granted “unless a determination is made that the outside employment is expected to involve conduct prohibited by statute or Federal regulation.” (See [5 CFR 3501.105](#).) Denials are rare, but they do happen. However, even if an outside employment request is approved, the Service may terminate that approval if the outside work interferes with your Service job and your performance suffers as a result. *For example*, an employee would be denied approval to work part-time for a nonprofit organization that receives grants from the Service if the employee’s official duties include monitoring the performance of the nonprofit organization.



## FAQs: Outside Employment

### 4. If I do accept a second job, are there any limitations on my activities in conducting that job?

A: Yes. There are several Federal laws and regulations that limit your activities. **These rules apply to ANY outside job, even if the job is not with a “prohibited source.”** A couple of these laws are criminal statutes, so make sure that you understand them!

- **You cannot participate in an official matter that could directly affect the financial interest of your outside employer.** For example, if you are an adjunct professor with a university, you cannot be involved with the review of Service grants to the university. (For more information see the OGE website regarding [18 U.S.C. 208](#).)
- **You cannot represent your outside employer before the Federal government.** For example, if you are a Certified Public Accountant on your non-duty time, you may not represent your personal clients before the Internal Revenue Service. (For more information see the OGE website regarding [18 U.S.C. 203](#) and [18 U.S.C. 205](#).)
- **You must be on non-duty or authorized leave when you perform your outside job.** (For more information see the OGE website regarding [5 CFR 2635.705](#).)
- **You may not use any government facilities, equipment, or supplies for your outside job or activity except as authorized by the DOI limited personal use policy.** (For more information see the OGE website regarding [5 CFR 2635.704](#) and the DOI [Limited Use Policy, 410 DM 2](#).)
- **If the outside work or activity prevents you from accomplishing your Service job, you may be required to stop this outside work or activity.** (For more information see [5 CFR 3501.105](#) and [5 CFR 2635.802](#).)
- **You may not use or disclose any nonpublic information as part of your outside work.** (For more information see the OGE website regarding [5 CFR 2635.703](#).)
- **You may not use, or allow anyone else to use your official title or position in conjunction with your outside work except as allowed by regulation for teaching, speaking or writing.** You also may not provide your Service email, physical address or phone number as contact information for your outside employment. (For more information see the OGE website regarding [5 CFR 2635.702](#). and question 13 below regarding teaching, speaking and writing.)
- **If there is a significant change in the nature or extent of your outside work or activity, or in your official Service duties, you must submit a revised request for approval.** (For more information see [5 CFR 3501.105](#).)

### 5. What types of outside work or activities do not require approval?

A: Personal memberships or personal participation in charitable, religious, social, fraternal, recreational, public service, or civic organizations do not need to be approved by the Service. Also, you are not required to receive Service approval to accept a job with an organization that is not a “prohibited source.” For example, you may accept a position as a weekend sales clerk at a local department store, a part-time job as a fitness instructor for the local gym, or a Board of Directors position with the school PTA without asking Service approval. However, if you are not sure whether the organization is a prohibited source, we recommend that you check with your ethics counselor. (**Note:** A reminder that all of the prohibitions in question 4 apply even if the work is not for a prohibited source and you are not required to receive Service permission.)



### PROFESSIONAL SOCIETIES AND NON-FEDERAL ORGANIZATIONS

**6. I have been asked to serve as a board member, in my personal capacity (off-duty) for the local Sierra Club chapter. Am I required to receive Service permission to do so?**

**A:** Yes. The Sierra Club is a "prohibited source", so you must receive your supervisor's review and ethics counselor approval before beginning this work. See: Service Manual Chapter [212 FW 4](#), *Participating in Professional Societies and non-Federal Organizations*. You will be required complete [FWS Form 3-2433](#), *Disclosure – Serving as a Board Member/Officer on a non-Federal Organization in a Personal Capacity*, prior to beginning service as a board member.

**7. I have been asked to serve as a board member for the American Fisheries Society as part of my official duties. Do I need Service approval to do so?**

**A:** Yes. Federal regulations and Departmental policy require that the Service Director approve your official participation as a board member or officer to an outside organization, before you begin serving in this role. This approval process involves the completion of a Memorandum of Understanding between the Service and the organization and other documents which must be reviewed by the DOI Solicitor's office prior to the Director's approval. So you should schedule a month or more to complete the process. Please consult your ethics counselor for more information before agreeing to serve in this role. See: Service Manual Chapter [212 FW 4](#), *Participating in Professional Societies and non-Federal Organizations*.

**8. I have been asked to serve as a member of an advisory committee to an outside organization as part of my official duties. Do I need Service approval to do so?**

**A:** Yes. You must receive your supervisor's approval to add this responsibility to your official duties. If the advisory committee simply makes recommendations to another decision-making body, then supervisor approval is sufficient. Ethics approval is not required. However, we recommend that you check with your ethics counselor to ensure that there are no other issues of concern. Occasionally, ethics counselors advise that the Service and an advisory committee prepare an agreement that outlines the employee's board responsibilities and the limitations imposed by the Federal ethics rules, so there is no confusion about the employee's role.

**9. I want to become a general member of a professional society in my personal capacity. Am I required to receive Service approval to join?**

**A:** No. You are not required to receive Service approval to participate in professional societies as a general member in your personal capacity.

**10. Can the Service pay for my annual personal membership dues to a professional organization?**

**A:** No. Federal agencies are prohibited from using appropriated funds to pay for personal membership dues in a professional organization. However, Federal funds may be used to purchase a Service membership to the organization, if the membership furthers the Service mission. *For example*, the Service may pay a refuge's membership dues to a local Chamber of Commerce.



## FAQs: Outside Employment

### TEACHING, SPEAKING, AND WRITING

**11. I have been asked to teach a university course as part of my official duties. Do I need ethics approval to do so?**

**A.** We recommend that you check with your ethics counselor to ensure that there are no issues of concern. However, ethics approval is not required. Your supervisor is responsible for approving the addition of these responsibilities to your official duties and working with you to complete [FWS Form 3-2447](#). As a reminder, you may not be paid by both the Service and the university for teaching conducted as part of your official responsibilities. See: [212 FW 11](#), *Adjunct or Affiliate Status with Universities and Research Institutes*.

**12. A university has offered me a paid position as an adjunct professor to teach an evening class. Am I required to receive Service approval to teach the course?**

**A:** Yes. If the subject matter of the class relates to your Service job and/or the university receives funds from the Service, you must receive ethics review and supervisor approval to teach this course. You must complete [FWS Form 3-2441](#), *Request for Approval to Engage in Outside Employment or Activity with a Prohibited Source*, prior to beginning your job with the university. See: [212 FW 11](#), *Adjunct or Affiliate Status with Universities and Research Institutes*.

As a general rule, you may not receive compensation, other than travel expenses, for outside teaching, speaking, or writing that relates to your official duties. However, the regulations provide an exception allowing you to accept pay for teaching at accredited universities and other institutions. (For more information see the OGE website regarding [5 CFR 2635.807](#).)

**13. Are there any restrictions on using my official title when teaching, speaking or writing as an outside activity in my off-duty time?**

**A.** Yes. If you are engaged in teaching, speaking, or writing as an outside activity, you may not use or permit the use of your official title or position except that:

- You may include your title or position as one of several biographical details when such information is given to identify you, provided that it is not given more prominence than other significant biographical details.
- You may use your title or position in connection with an article published in a scientific or professional journal, provided that it is accompanied by a disclaimer that the views expressed do not necessarily represent the views of the Service. (See [117 FW 1](#), *Policy Review Guidance for Scientific Information*.)
- If you are ordinarily addressed using a general term of address such as "The Honorable," or a rank, such as a military or ambassadorial rank, you may use that term of address or rank.

See: [5 CFR 2635.807\(b\)](#) for more information and examples.

### EXPERT WITNESS

**14. My training and experience uniquely qualify me as an expert in my field, and I am often asked to serve in civil trials as an expert witness. What should I do if I receive a request for such service on behalf of a non-Federal party?**

**A:** Consult your ethics counselor. Service as an expert witness in your official capacity requires approval of your supervisor. In your official capacity, you may serve as a fact witness when



## FAQs: Outside Employment

subpoenaed by an appropriate authority or as an expert witness when doing so under an agency “housekeeping” regulation (for example, a request for the production of documents.) (If you are a Service law enforcement officer, see: [454 FW 3](#), *Compulsory Process and Testimony* and [454 FW 1](#), *Public Affairs and Release of Law Enforcement Information*.)

Service as an expert witness in your private capacity requires approval of an ethics official and your supervisor. This is intended to prevent an employee from using public office for the employee’s personal private gain, or for the private gain of the party on whose behalf the employee would testify. In order to authorize an employee to serve as an expert witness in a private capacity, the ethics counselor must determine that the employee’s service as an expert witness is in the interest of the Government, or that the subject matter of the testimony does not relate to the employee’s duties. (See the requirements and form in [212 FW 5](#), and [5 CFR 2635.805](#) for more information.)

### NOTARY PUBLIC

**15. My Service duties include performing as a notary public. A mortgage company offered me a job notarizing loan closings after hours and on weekends. Can I accept this job?**

**A:** If you paid for your notary license, you may accept the job with the mortgage company subject to the requirements of [212 FW 5](#), *Outside Employment or Activity*. You may be required to complete [FWS Form 3-2441](#), *Request for Approval to Engage in Outside Employment or Activity with a Prohibited Source*, prior to starting this work or activity. If the Service paid for your notary license, the license is government property and only may be used for the conduct of government work. A Service notary, however, may be authorized to provide his or her service in the office to Service co-workers for personal matters on an occasional basis, for no charge, so long as this work does not interfere with his/her official duties.

### HONORARIA

**16. Last week I gave a speech to an organization as a part of my official duties. The organization sent me an honorarium (a monetary gift or payment). May I keep it?**

**A:** No. Federal employees may not accept any supplementation of their government salary for the performance of an official duty. The honorarium must be returned to the organization, or if that is not possible, then it must be given to the appropriate Service official for deposit in the Treasury. Consult with your ethics counselor and your Service Budget and Finance office for specific guidance regarding the proper disposal of these funds.

**17. If I cannot personally accept an honorarium for giving a speech as part of my official duties, may I request that organization donate the money to a charity (i.e., the National Fish and Wildlife Foundation) on my behalf?**

**A:** No. You are prohibited from designating a person or an organization, including a charitable or non-profit organization, to accept any compensation which you are prohibited from accepting directly. Compensation paid to another person, including a charitable organization, on the basis of your designation or recommendation, is treated as if it was given directly to you.



### FINANCIAL DISCLOSURE REPORTING REQUIREMENTS

**18. I am required to file an annual financial disclosure report (OGE 450 or OGE 278e). Do I need to report information about my outside job on the form?**

**A.** Yes. You must provide this information on your financial disclosure form every year that you receive income from this position or serve in an outside role (whether paid or unpaid). If you file an [OGE 450 form](#), you must declare your income in Part 1, *Assets and Income* and the outside position in Part 3, *Outside Positions*. The [OGE 278e](#) form includes multiple sections where this information must be included, depending upon the amount of money earned during the reporting period.