

ASci CORPORATION

Code of Business Conduct: Legal and Ethical Obligations of Employees

I. Scope and Purpose

This Code of Conduct applies to all directors, officers, and employees (hereinafter "employees") of ASci Corporation, its divisions, and its subsidiary corporations (the "Company"). Its purpose is to articulate Company standards of conduct, especially in government procurement matters, and to provide guidance to employees in discharging their obligations under this Code.

II. General Policy

Unlawful, improper or unethical conduct, or the appearance of impropriety by any employee is unacceptable and will not be tolerated by the Company. In all of their dealings on behalf of the Company and in discharge of their duties, employees are expected to use good judgment in a legal and ethical manner consistent with the standards established by this Code. The Company's integrity and reputation in the business community are extremely important to the Company's long term business success. Each employee must use common sense and his or her own good judgment in applying these standards to specific situations since this Code does not cover every circumstance that may arise. A very practical test is simply to ask yourself whether you would feel comfortable explaining your decision to persons you respect, e.g. your family, friends, clergy, coworkers, etc. If you are confronted with a situation in which the legal or ethical issue is unclear to you, you should not proceed without consulting your supervisor.

III. Standards of Conduct

(A) Prohibited Activities

(1) Conflicts of Interest

An individual conflict of interest (including financial or investment interest) exists for a Company employee if outside business or other interests, actually or potentially may adversely affect a Company employee's motivation, performance, or ability to impartially perform contract work. Company employees have their first business responsibility to the Company and are expected to avoid any activity that may interfere with the carrying out of that responsibility in an impartial and responsible manner.

(2) Obtaining or Acquiescing in the Receipt of Competitor's Bidding Information

Under no circumstances should any employee become involved in any activity that results in or may result in obtaining or acquiescing in the unauthorized receipt of a competitor's confidential bid/proposal information. Any activity that results in or may result in obtaining or acquiescing in the receipt of such information could result in severe penalties for the participants and could result in suspension or debarment of the Company from government contracts. Several of the federal statutes discussed in the sections that follow are triggered by obtaining or acquiescing in the receipt of a competitor's confidential bid information.

Example 1:

Facts:

Company Y is a proposed subcontractor to the Company. Company X is a competitor of the Company, bidding for the same contract. Burt, an employee of Y, calls Able, an employee of the Company and says: "I have a copy of X's bid proposal. Would you like to see it?" Able says: "Sure." A copy of the proposal is sent in the mail to Able who opens it, looks at it, destroys it and makes no use of it.

Analysis:

Able has committed an act that could be in violation of federal procurement regulations, and is in violation of Company policy. Burt has obtained information that would ordinarily not be public. Able has acquiesced in the receipt of the same information. Even though Able did not make any use of the information, the integrity of the government procurement process was comprised by his acts.

When first contacted by Burt, Able should have declined to discuss the matter at all. He should have reported the incident immediately.

Example 2:

Facts:

Same as Example 1 except that Able tells Burt that he has no interest in the information. Nevertheless before Able can hang up the telephone, Burt blurts out: "Company X's bid is \$6.5 million." Able hangs up the telephone and takes no further action. Able does not know whether Burt has any basis for his statement and generally regards Burt as unreliable.

Analysis:

Able again had a duty to report this incident. Able violated Company policy by failing to make an immediate report of the incident.

(3) Anti-Competitive Conduct

Federal and state laws prohibit and make unlawful any contract, combination, or conspiracy in restraint of trade. Collusive bidding is an example of a practice that eliminates competition or restrains trade, leading to excessive prices and warrants criminal, civil, or administrative action against the participants. The Company is committed to a free and open marketplace and will not tolerate actions by its employees which violate the law or the company's policy in the area. Accordingly, Company employees must be aware that such conduct may expose the Company and individual employees to liability under the following statutes:

(a) Sherman Antitrust Act, 15 U.S.C. §§ 1-7

Under this statute, all persons are prohibited from engaging in any contract, combination, or conspiracy in restraint of trade. This statute covers any contract, agreement, plan or scheme, written or unwritten, formal or informal, expressed or inferred from conduct or other circumstances, with any competitor or the employee or representative of any competitor which restrains trade with respect to such matters as prices; terms and conditions of sale or credit; allocation or division of territories, sales, customers, or jobs; limitations on production or distribution; or group boycotts.

Violations of the Act may subject the Company to fines up to \$10,000,000. Any employees involved are subject to fines up to \$350,000, imprisonment for up to three years, or both.

(b) Clayton Act, 15 U.S.C. § 15(a)

Under this statute, the United States can recover money damages against government contractors who violate the antitrust laws. Section 15(a) provides that whenever the United States is injured in its business or- its property by reason of anything forbidden in the antitrust laws it may sue and recover three times its damages and the cost of the suit. Collusive bidding, identical bidding and uniform estimating systems are violations of the antitrust laws which constitute illegal practices under the Clayton Act.

(4) Intentional Misrepresentation (Fraud) and Negligent Misrepresentation

Fraud is the intentional misrepresentation of a material fact. Employees are strictly prohibited from engaging in any fraudulent conduct (including deceit, deception, concealment, breach of trust and any other act of dishonesty) in their dealings with the government.

Negligent misrepresentation is making a statement of fact without exercising reasonable care to ascertain the truth of the fact asserted. The Company expects all of its employees to obey the law in this area and to deal fairly and openly in all business relations. Several federal statutes prohibit fraudulent conduct in dealing with the government.

(a) False Statements Act, 18 U.S.C. § 1001

The False Statements Act prohibits three kinds of activity in dealings with the federal government -

- (i.) Falsifying, concealing, or covering up a material fact;
- (ii.) Making a false, fictitious, or fraudulent statement or representation; and
- (iii.) Making or using any false writing or document. An employee who knowingly and willfully engages in any of the prohibited conduct may be fined up to \$10,000, imprisoned for up to five years, or both. In addition, a false statement is grounds for debarment or suspension of the Company from government contracting.

Example 1:

Facts:

An employee of a company conceals material facts (e.g., the receipt of a competitor's confidential bid information) in the course of an investigation and audit by the EPA's Inspector General's office conducted for the purpose of determining whether a contract was fairly awarded.

Analysis:

The Inspector General is given statutory authority to conduct investigations and audits to uncover fraud and abuse. If the employee knowingly misrepresented or concealed material facts during the course of the investigation, he is in violation of the Act.

(b) False Claims Act

- (i.) Civil, 31 U.S.C. §§ 3729-3731

Under this statute, a government contractor is prohibited from (1) presenting, for payment or approval, any claim against the federal government knowing such a claim to be false, fictitious or fraudulent; (2) using, for the purpose of obtaining payment or Approval of such claim, any false bill,

receipt, voucher, roll, account, claim certificate, affidavit or deposition, knowing it to contain fraudulent or fictitious statements or entries; or (3) entering into any agreement, combination or conspiracy to defraud the government by obtaining the payment or allowance of any false or fraudulent claim.

Each violation of this statute may result in civil penalties of \$5,000-\$10,000. In addition, the government may be rewarded three times the amount of its damages.

Example 2:

Facts:

A contractor presents ten vouchers to the government which overstate expenses incurred on a project and five vouchers for fictitious expenses.

Analysis:

In this instance, if the contractor presented these false claims to the government with either the knowledge that they were fraudulent or with the specific intent to defraud the government, the contractor has violated the False Claims Act. Moreover, the contractor may be held liable for each fraudulent claim presented to the government.

(ii.) Criminal, 18 U.S.C. § 287

Under this statute, anyone who makes or presents a claim against the United States, knowing such claim to be false, fictitious, or fraudulent, shall be fined up to \$10,000, imprisoned for up to five years, or both. If the claim presented relates to a Department of Defense contract, the maximum fine is \$1,000,000.

(5) Violations of Procurement Integrity Standards

(a) PAR Procurement Integrity Regulations, 48 C.F.R. § 3.104

Generally, during the procurement process, company employees i) should not promise future employment or business opportunities to a procurement official; ii) give anything of value to a procurement official or; iii) obtain any "proprietary" or "source selection information" prior to the creation or modification of a contract pursuant to the procurement process. Such information consists of that contained in a bid or proposal submitted by a "competing contractor" (any entity legally capable of entering into a contract, or is reasonably likely to become a competitor for a procurement) and any information compiled by the government to conduct a particular procurement.

A procurement official is defined as a civilian or military official who has participated personally and substantially in certain activities for a particular procurement. Those activities include development of procurement requests, evaluation of bids, selection of procurement sources, and the negotiation and review of contracts.

However, if the Company wishes to discuss future employment or business opportunities at the Company with a procurement official, it should make sure the procurement officer takes at least one of two possible steps. First, during the conduct of a procurement, the procurement official may submit a recusal proposal to the government. A recusal proposal is a written document where the procurement officer offers to disqualify himself from further participation in the procurement relating to the competing contractor.

Second, a government employee who is or was a procurement official may request an ethics advisory opinion from the agency ethics official as to whether specific conduct which has not yet occurred would be a violation.

If a Company employee wishes to discuss employment opportunities at the Company with someone who may be a procurement official, the Company employee has a duty to inquire if the individual is a procurement official for a procurement for which the Company is a competing contractor. The Company takes these laws very seriously and its employees are expected to follow them, with the knowledge that penalties may result from any violations.

Further, if a prospective employee was once a procurement official on a particular project for which the Company is pursuing a contract, that individual is permanently barred from working towards obtaining that contract. If the contract is obtained without the former government employee's aid, that individual is still prohibited from assisting the Company in performance of the contract for at least two years after the last date of his personal and substantial governmental involvement with the project. There are some exceptions for subcontractors.

Finally, the regulations require that for every procurement in excess of \$100,000, the Company certify in writing to the contracting officer that to the best of its knowledge, there are no procurement integrity violations (or such violations must be disclosed).

(b) Criminal Penalties for Certain Activities by Former Government Employees, 18 U.S.C. § 207

Another federal statute, 18 U.S. C. § 207 (a) (1), makes it a crime for any former federal employee (not just procurement officers) to communicate with any government entity or employee on behalf of their present employer. The permanent ban is applicable if i) the United States is a party or has a substantial interest, and ii) the former federal employee was personally and substantially involved in the matter while with the government and iii) the matter involved a specific party or parties at the time of the former federal employee's participation.

Finally, under 18 U.S.C. § 207(c), former government "Senior executive personnel" (defined by their level of compensation, presidential

appointee status, military rank while government employees) are barred for one year, from communicating with their former agency or department on behalf of their present employer. A waiver of this restriction may be obtained from the Director of the Office of Government Ethics if i) hardship would otherwise result, and ii) waiver would not create the potential for undue influence or unfair advantage.

(6) Bribery and Gratuities

(a) Bribery

An employee who offers to a government official something of value with the specific intent to influence that official, commits bribery. Both state and federal criminal statutes strictly prohibit bribery and employees are not allowed to make any kind of payment either directly or indirectly to influence a government official.

The elements of a bribery offence under the Federal Bribery Statute, 18 U.S.C. § 201 (b), are (1) offering or promising a thing of value; (2) to a public official; (3) with the intent to influence an official act or to induce the public official to commit some fraud or violate an official duty. The criminal penalties for violation of this statute include a maximum of three times the monetary equivalent of the bribe, or 15 years in prison, or both. Further, the government contract may be terminated.

(b) Gratuities

No employee may solicit or confer upon a government official, gratuities in connection with a government contract.

The Federal Illegal Gratuities Statute, 18 U.S.C. § 201(c) (1), prohibits the offer to or solicitation by a public official of gifts made for or because of an official act. In this case, unlike a case under government, contractor need not have a specific and final act in mind or corrupt motive to be in violation of the Act.

An after the fact reward for an official act that would have been performed anyway is sufficient to sustain a conviction for an illegal gratuity although there must be some connection between the official act and the offeror solicitation of the gratuity. Violation of the Illegal Gratuities Statute may result in a fine, or two years in prison, or both.

Example 1:

Facts:

Contractor to government contracting officer: "if you could persuade your superior to award my company the contract, you will be more than adequately compensated." Subsequent to this conversation, the contract is awarded to another contractor.

Analysis:

The contractor has specific intent to influence the government contracting officer's conduct. Even though nothing of value changed hands, and the government contracting officer did not accept the offer, bribery is established since the requisite intent to influence is present.

Example 2:

Facts:

A contractor and a government agency procurement official have been close personal friends since the time they shared offices in the Department of Defense 15 years ago. The contractor has dealt directly with his friend, and has recently been awarded a DOD contract. The two meet regularly for lunch and the contractor usually picks up the check and charges it to his expense account.

Analysis:

Even though the contractor is not attempting to influence his friend or gain preferential treatment from the agency, this situation may create the appearance of impropriety. The payment for the government official's lunch by the contractor might be viewed as the acceptance of a gratuity by the government official even though the contractor would have been awarded the contract in the absence of the free lunches. The two should pay for their own lunch, in order to prevent even the appearance of impropriety.

(7) Subcontractor Kickbacks

The Federal Anti-Kickback Act, 41 U.S.C. § 51-54 prohibits subcontractors under a negotiated prime contract from paying any commission or compensation to the prime contractor or any higher-tier subcontractor as an inducement or acknowledgement for award of the subcontract. Any employee who knowingly, directly or indirectly makes or receives such prohibited payments may be fined, receive up to ten years in prison, or both. The government has the right to cancel a prime contract tainted by a kickback.

Example 1:

Facts:

A subcontractor gives corporate stock to a prime contractor as an inducement to award him a subcontract.

Analysis:

Although property rather than money was given to the prime contractor, this still constitutes a prohibited payment in violation of the Act.

Example 2:

Facts:

A lower tier subcontractor X pays money to XYZ Corporation which is separately owned by higher tier subcontractor Y in order to induce Y to award a subcontract to X.

Analysis:

The payment to XYZ Corporation is a Violation of the Act. X cannot evade the intent of the Act by making indirect payments to Y through a partnership or corporation.

(8) Buying-in

Buying-in occurs when a contractor submits an offer below anticipated costs with the expectation that the contractor (1) will increase the contract amount after award through unnecessary or excessively priced change orders; or (2) will receive follow-on contracts at artificially high prices to recover losses incurred on the buy-in contract. The Federal Acquisition Regulations (FAR) § 3.501-2 discourage buying-in since its effect is to decrease competition and may lead to poor contract performance. This type of unethical bidding practice violates the Company's policy of promoting fairness and honesty in its business transactions.

(9) Contingent Fees

By law or regulation, (10 U.S.C. § 2306(b), 41 U.S.C. § 254(a), FAR § 3.400), most government contracts must include a clause or covenant by which the contractor warrants that he or she has not employed any person or selling agency to solicit or secure the contract upon an agreement for a contingent fee. FAR § 3.401 defines a contingent fee as any commission, percentage, brokerage, or other fee that is conditioned upon success in securing a contract with the government. Since these fees are illegal and reward the use of improper influence, it is the Company's policy that they are forbidden, except in the few instances where federal and state law allow

exceptions to this rule. These statutes provide an exception to it warranty against contingent fees clause if the contractor utilizes bona- fide employees.

(10) Aiding the Breach of a Government Employee's Ethical and Legal Obligations

(a) General Considerations

Executive Order 11222 of May 8, 1965, and 5 C.F.R. Part 735 require each federal agency to prescribe standards of conduct for its employees. Copies of the Code of Conduct for EPA and DOD are available from the Company's General Counsel. Employees who have dealings with these agencies must be familiar with the ethical and legal standards of conduct imposed on government employees in dealing with the Company.

Under no circumstances should a Company employee engage in any conduct that would cause a government employee to be in violation of his or her ethical or legal obligations or that would give even the appearance of impropriety in the Company's dealings with the government.

As a general rule, a conflict of interest exists for a government employee if activity or interest interferes or would encourage interference with his or her motivation or performance on behalf of the government. FAR § 3.101-2 provides:

[N]o Government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who (a) has or is seeking to obtain Government business with the employee's agency, (b) conducts activities that are regulated by the employee's agency, or (c) has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Certain limited exceptions are authorized in agency regulations.

(For example, see the EPA regulations at 40 C.F.R. § 3.400(b))

As noted above, each agency has its own regulations which implement the FAR standards. The EPA regulations, reprinted below, are illustrative of these regulations.

(b) Ethical Standards of Conduct for EPA Employees-40 C.F.R. 3.103

The ethical standards of conduct for EPA employees provide as follows:

Employees may not use their official positions for private gain or act in such a manner that creates the reasonable appearance of doing so.

Employees [of the EPA] therefore must not:

- (a) Engage, directly or indirectly, in any business transaction or arrangement, including buying or selling securities or recommending the purchase or sale, of securities to others, on the basis of information derived from their official positions which has not been made available to the general public;
- (b) Use information acquired through EPA duties that has not been made available to the general public to further their private interests;
- (c) Use their Government positions to coerce, or appear to coerce, anyone to provide any financial benefit to themselves or others; or
- (d) Take any action, whether specifically prohibited or not, which would result in or create the reasonable appearance of:
 - (i.) Using public office for private gain.
 - (ii.) Giving preferential treatment to any organization or person;
 - (iii.) Impeding Government efficiency or economy;
 - (iv.) Losing independence or impartiality of action;
 - (v.) Making a Government decision outside official channels; or
 - (vi.) Adversely affecting public confidence in the integrity of the Government or EPA.

(11) Other Laws

There are many other laws and regulations governing the government procurement process. The Company's General Counsel can assist you in complying with these laws. If you have any questions about the laws themselves or their application, you should contact your supervisor or the Company's General Counsel for advice before taking any action that might violate this Code or the law.

(A) Spouse and Relatives Employment Policy

To avoid possible conflicts of interest, the Company reserves the right not to employ close relatives of officers or other high level employees of our customers (including agencies of the United States Government), competitors, or others with whom the Company deals, where such a restriction is necessary, in the opinion of the Company, to avoid the actuality or appearance of conflict of interest, or to protect confidential information.

For purposes of this policy, relative includes: spouses, siblings, parents, children, grandparents, grandchildren, nieces, nephews, and people living in the same household.

This policy may be applied at any time in the case of existing relationships, when in the business judgment of the Company it is necessary to avoid the actuality or the appearance of a conflict of interest. It may also be applied to protect confidential information, or where the policy is otherwise required to comply with the law and other related policies. The Company's decision not to apply this policy to particular existing situations may be reversed at any time.

IV. Procedure for Reporting Violations

(A) Where to Report an Impropriety

(1) Supervisor

An employee who knows of or suspects an unethical or prohibited practice has a duty to immediately report the incident to his or her supervisor.

(2) Contracting officer/Inspector General

The supervisor shall immediately report any illegal or prohibited act to the appropriate contracting officer and Inspector General.

An employee may also bring unethical or prohibited practices to the attention of the contracting officer for the agency in charge of the procurement.

(3) Inspector General's Office

The Inspector General Act of 1978, as amended, 5 U.S.C. App., establishes offices of Inspector General in many executive agencies. The Inspectors General are authorized to conduct investigations and audits for the purpose of preventing and detecting fraud, waste and abuse with respect to their agency's programs and operations. Employees may report unethical practices anonymously to the Inspector General's fraud hotline. The Company encourages employees to report evidence of fraud, waste and abuse to the appropriate Inspector General.

(B) Disciplinary Action

The Company will not tolerate violation of this Code by any director, officer or employee; nor will the Company tolerate the disregard or circumvention of corporate policy or any other prohibited conduct. Employees shall not attempt to accomplish by indirect means (agents or intermediaries) what they are directly forbidden to do. Disciplinary action, up to and including dismissal, may result from any violation of this Code.

V. Conclusion: A Final Thought

The Company expects simply that its employees obey the law and deal fairly and honestly in all business transactions with the government. This Code is based on recognized principles that all of us understand and respect. In most instances applying these principles requires only common sense and good judgment. However, there may be a situation in which ethical or proper conduct is not so clear. Therefore, each employee is encouraged promptly to bring any question or problem to the attention of his or her department supervisor.