



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY FIELD SUPPORT COMMAND
1 ROCK ISLAND ARSENAL
ROCK ISLAND, IL 61299-6500

AMSFS-GC

22 February 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Contractors in the Workplace

1. In order to avoid controversies that could lead to bid protests, contract disputes, ethical violations, and improper disclosure of sensitive, nonpublic information, it is important to re-familiarize ourselves with the issues involving contractors in the workplace especially with the ongoing physical relocation of several offices within the Command.

- Remember that contractor employees are not Federal employees.
- Identify contractor employees in the work area through their distinctive security badge.
- Protect documents, disks, CD-ROMs, slides, and other media on which "inside" information is stored. Do not leave it on your desk for the casual observer to read.
- Watch what you discuss and where you discuss it. The hallways, bathrooms, lunchrooms, and other common areas are not secure areas for discussing sensitive information. In many cases, not even our offices are secure because of the proximity of contractor personnel.
- When you attend a meeting in which sensitive information is about to be discussed, ensure that you know who is in the room and determine whether the information can be disseminated to them. If you have any doubt, ASK the Contracting Officer or legal office.
- In addition to avoiding accidental disclosure, ensure that you don't purposely disclose sensitive information. Before you turn over information to a contractor to develop visual aids, create a database, provide consultations, and before you invite a contractor employee to a meeting, ensure that it is proper for the contractor to have access to the information. Even if an improper disclosure

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does not violate any specific law, the result can be reduced competition, unfair competition, an appearance that the process lacks integrity, and protests and litigation.

- Respect the employer-employee relationship between contractors and their employees. Do not interfere with it by inviting their employees to attend Federal employee events, e.g., organization days, pressuring the contractor to use "favorite" employees, or insisting on some personnel action.

- Be aware of intellectual property rights consequences of contractor employee work products created in the Federal workplace. Generally, the contractor will be able to commercially exploit software or inventions that it creates in the Federal workplace.

- Avoid giving the incumbent contractor an unfair competitive advantage by including its employees in meetings to discuss aspects of a re-competition, or by accidentally allowing the contractor's employees to overhear or gain access to planning information.

- Identify possible conflicts by contractor employees. If it would be a crime (conflict of interest) or violate the Standards of Ethical Conduct (appearances of partiality) for a Federal employee to participate in an official matter, we should insist that the contractor provides employees free of the same conflicts or appearances.

- Safeguard proprietary, Privacy Act, and other sensitive and nonpublic information. Release of certain types of information to contractor employees to analyze, create charts and graphs, enter into databases, etc., could violate the Procurement Integrity Act, the Trade Secrets Act, the Privacy Act, or other laws or regulations that could subject the releaser to civil and/or criminal penalties to include removal.

- Beware of gifts from contractor employees. Even if they work in the Federal workplace, they are "outside sources" and the rules for their gifts are very different from the rules for gifts between employees. For example, contractors and their employees may not be solicited to provide or contribute to a retirement gift for a Federal employee.

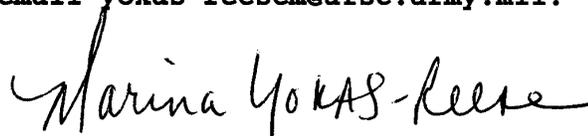
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- Do not assign contractor employees "out of scope" work, personal services, or work that is "inherently governmental." The services a contractor is required to provide through its employees are set out in the contract. There are no "and other duties as assigned." When we contract, we give up control and flexibility.

- Resolve inappropriate appearances created by close relationships between Federal and contractor employees. For example, if a Federal employee develops a close personal relationship with the contractor's site manager, that Federal employee probably should not be assigned or continue as the Contracting Officer Representative (COR).

2. Please contact the undersigned to discuss any questions you may have or issues involving contractors in the workplace. I can be reached at DSN 793-8458 or email yokas-reese@afsc.army.mil.



MARINA YOKAS-REESE
Ethics Counselor

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