

Open Letter to Government Employees

Becoming Engaged with NCMA Enhances Professionalism and Mission Success

November 7, 2009

For over 50 years, NCMA has led and represented the contracting profession. The association currently has over 19,000 members and has operating chapters across the United States and in more than 13 countries. However, NCMA's biggest value is in the day-to-day practice of contract management. NCMA provides a collection of neutral networks or communities, at the local and national level, where contract management professionals from all types of government and industry agencies and organizations can come together with a common goal: To enhance their professional expertise in a nonadversarial environment, thus enabling them to more effectively accomplish the mission of their organizations.

The strength and uniqueness of NCMA comes from its ability to provide this neutral environment where professionals from government and industry can come together to discuss, analyze, and advance the state of the contract management profession. During the last two years, this strength of the association has been affected in some instances by officials who have looked at available ethical guidance, which is limited and in some cases contradictory, and concluded that contracting personnel in their agency or office should err on the side of caution and not be an active participant in NCMA activities. Some of this advice has prevented government contracting professionals from acting as local NCMA chapter officers or even active volunteers, (e.g. meeting coordinator). Some advice has also prohibited government contracting professionals from participating at the national level as members of the Board of Directors or the Executive Advisory Committee. Fortunately, such advice is not the norm across the country, and we are unaware of any government employee being advised that membership in NCMA in an unofficial capacity is prohibited.

In most government agencies, advisors faced with the same set of facts briefly outlined in the previous paragraph have concluded that such activity on the part of government contracting professionals is acceptable, provided certain rules are followed. In order to bring some consistency to this issue, NCMA approached the Office of Government Ethics and proposed a set of principles that would be generally applicable to all government professionals. The guidelines we proposed were drawn from and modeled after the DOD's Joint Ethics Regulation.

OGE responded to our request on April 30, 2009, and generally agreed with our guidelines. In their letter, OGE stated, "As a general matter, this list indicates a good understanding of the Standards of Conduct applicable to executive branch personnel and the ethical principles that underlie the standards." However, OGE went on to say that there may indeed be circumstances where it would be wise for individual employees to seek legal advice regarding unique circumstances applicable to their particular professional responsibilities.

Because of the large number of DOD employees involved with NCMA activities, OGE suggested we obtain a review of our guidelines by the DOD director of standards of conduct (SOCO). While that office does not issue official advisory opinions to organizations such as NCMA, SOCO provided us with additional clarifying information on October 1, 2009 that has been incorporated into the following guidelines.

The guidelines we proposed are as follows:

Activities allowed for federal employees in a personal capacity:

1. Become members of NCMA acting exclusively outside the scope of their official position.
2. Attend and participate in educational NCMA conferences, workshops, or meetings if approved in accordance with agency procedures. See item #7 in this list for additional guidance.
3. Participate in the management of NCMA (Board of Directors) at the local or national level in a personal capacity acting exclusively outside the scope of their official position, provided they are invited to participate in such a position because of their expertise or years of experience and not because of their current job or position. The listing of board members will not include the government member's official title; however, the name of the organization is acceptable. When participating in a board meeting during normal duty hours the federal employee should normally take leave. Board members at the local or national level may not receive compensation for participation in board business, but they may receive reimbursement of actual expenses in accordance with the rules of the specific board involved. If an employee because of his or her government position is required to file a financial disclosure statement, (e.g. SF form 278 or OGE form 450), the employee must report any position held in NCMA on that form.
4. Present an educational briefing to an NCMA conference, workshop, or meeting in their official position in order to present information about current activities in their service or agency. See item #7 in this list for additional guidance.

5. Participate on the NCMA Executive Advisory Council in nonmanagement, nonfiduciary roles, in a personal capacity acting exclusively outside the scope of their official position, provided they are invited to participate in such a position because of their expertise or years of experience and not because of their current job or position.
6. Limited use of government e-mail for simple communications (not a statement of promotion or endorsement) to forward announcements of NCMA educational events since such announcements serve the common interests of government acquisition professionals in a manner that is consistent with DOD Joint Ethics Regulation paragraph 3-208. In this regard, NCMA has been advised by the DOD Standards of Conduct Office that the chief of the contracting office, or similar government official, should be advised of the nature of such communications and asked to approve the use of government e-mail for this purpose. Such approval should be sought on an annual basis or more frequently if desired by the activity's approving official. Obtaining coordination and approval to use government e-mail systems to announce NCMA program activities is considered a prudent step for non-DOD activities as well.
7. Accept cash awards under awards programs administered by NCMA unless the awardee's official position could substantially affect the interests of NCMA. The award may include free attendance at the event, including education conferences and gala awards ceremonies, as well as travel expenses to the event for themselves and their families. In general, such awards are acceptable because NCMA makes awards pursuant to published and public criteria and never includes consideration of a potential awardee's official position as a criterion. Under some circumstances, (e.g. the award is valued at in excess of \$200), the employee who is to receive the award may require specific a written determination from his or her agency ethics official to confirm these circumstances.
8. Organizations and commands may provide logistical support (provide government facilities, pay travel expenses to participants or speakers, etc.) for NCMA events because such events are structured to serve DOD public interests (neutral forum to discuss and learn about professional and related material), not interfere with government official duties, and charge a reasonable fee to each participant. (A "reasonable fee" is generally defined as less than or equal to \$645 per day in FY 2009 economics.)

Activities not allowed for federal employees in a personal capacity:

1. Use their official position to direct subordinates to become an NCMA member or participate in NCMA events.

2. While serving as a national or local board member or officer, make a decision in their official government capacity that would further the purposes of NCMA. If the individual would normally be asked to act on such a request because of their official position, (e.g. approve use of government facilities for a meeting), the individual will defer the decision to an appropriate person in the management structure.
3. Use their official government position to directly further the purposes of NCMA, (e.g. sending out a communication specifically advocating an NCMA event).
4. Accept a cash award if the employee in their official position could substantially affect the interests of NCMA.

We believe these guidelines serve as a framework within which government employees in all agencies and at all levels can safely and ethically participate in NCMA activities. However, in accordance with OGE's caution, we encourage individuals to seek local legal advice regarding any unique circumstances or for individual guidance in applying these guidelines.

Signed,

NCMA Board of Directors

Please direct inquiries about this letter to

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