

Seeking Outside Employment during a Shutdown (January 18, 2019)

This document provides further information on requirements applying to NASA employees who seek outside employment during a shutdown. NASA employees furloughed during a lapse in NASA's appropriations may seek outside employment. Further, consistent with previous shutdowns, all U.S. Government ethics laws and regulations continue to apply to furloughed employees.

The NASA Ethics program is able to advise NASA employees on outside activities they seek to pursue during the shutdown. Due to the very limited Ethics Program resources available during the shutdown, we ask that employees interested in pursuing outside activities review these answers to common questions prior to contacting their local NASA ethics contact.

Q: May I seek outside employment during the shutdown?

A: Yes, if doing so complies with all Federal laws and regulations. Employees who wish to explore outside employment during the furlough should carefully review Subpart H of the Standards of Conduct for Employees of the Executive Branch, which you can read here: <https://www.govinfo.gov/content/pkg/CFR-2002-title5-vol3/xml/CFR-2002-title5-vol3-part2635-subpartH.xml>. Accordingly, you should exercise care to not engage in an outside activity that conflicts with your official duties or generates a conflict of interest prohibited by 18 U.S.C. § 208; and not represent outside interests before the Federal Government as prohibited by 18 U.S.C. § 203 and § 205. These and other limitations on outside employment and activities during the furlough are described in Subpart H of the Standards of Conduct for Employees of the Executive Branch referenced above. You also may not work for a NASA contractor, subcontractor, grantee, or party to a NASA agreement on work performed by that entity for NASA, as proscribed by 5 C.F.R. § 6901.103(c), in NASA's supplemental ethics regulations. Nor may you perform outside activities requiring approval under 5 C.F.R. § 6901.103(d) in NASA's supplemental ethics regulations until you have obtained such approval.

Q: What types of employment are specifically prohibited under NASA's supplemental ethics regulations at 5 C.F.R. § 6901.103(c), even if complying with other laws and regulations?

A: Outside employment with the following parties, as described, is prohibited under 5 C.F.R. § 6901.103(c):

(1) A NASA contractor, subcontractor, or grantee in connection with work performed by that entity for NASA; or

(2) A party to a Space Act agreement, Commercial Launch Act agreement, or other agreement to which NASA is a party pursuant to specific statutory authority, if the employment is in connection with work performed under that agreement.

Q: What types of outside employment require advance written approval under NASA's supplemental ethics regulations at 5 C.F.R. § 6901.103(d)?:

A: The following outside activities require advance approval under 5 C.F.R. § 6901.103(d):

(1) Teaching, speaking, writing, or editing, unless the subject matter pertains to the private interests of the employee, such as a hobby, cultural activity, or a professional pursuit unrelated to the employee's official duties;

(2) The practice of a profession or the rendering of professional consulting services;

(3) The management or conduct of a business in which the employee or the employee's spouse has an ownership interest, if that business performs, or may seek to perform, work (other than routine consumer transactions) for the Federal Government or for a NASA contractor, grantee, or other party to an agreement with NASA;

(4) Holding State or local public office, whether by election or appointment;

(5) Employment with a NASA contractor, subcontractor, or grantee;

(6) Employment with a party to a Space Act agreement, Commercial Launch Act agreement, or other agreement to which NASA is a party pursuant to specific statutory authority;

(7) Serving as an officer, trustee, or member of a board, directorate, or other such body of a for profit organization or of a nonprofit organization that is a prohibited source; or

(8) Employment which involves the practice of a NASA-owned invention or the performance of experimental, developmental, research, design, or engineering work that relates to the official duties of such employee.

Q: What does approval of outside employment requiring advance approval under 5 C.F.R. § 6901.103(d) of NASA's supplemental ethics regulation entail?

A: Review of a written request by a local NASA ethics official and approval by NASA management, usually an individual's immediate supervisor, and the Center Director, the Center Director's designee, or in the case of Headquarters the individual's head of HQ office. There is a different procedure for some senior officials. The local contact point will provide further information for submitting the request. Approval may also require certain conditions to ensure compliance with Federal ethics requirements. Requests involving conduct prohibited by Federal statute or regulation, including but not limited to activities substantially implicating an employee's ability to perform official duties, will not be approved.

Q: Are supervisors authorized to review and approve outside activity requests during the shutdown?

A: Yes. NASA ethics officials can provide a local administrative contact point to assist in contacting supervisors during the shutdown.

Q: How do I contact and communicate with a local NASA ethics official?

A: NASA employees seeking NASA Ethics Program services during the shutdown should contact a local NASA ethics official through the e-mail addresses below:

Ames Research Center:	thomas.w.berndt@nasa.gov
Armstrong Research Center:	david.a.samuels@nasa.gov
Glenn Research Center:	scott.barber@nasa.gov

Goddard Space Flight Center:	r.a.falcon-1@nasa.gov
Johnson Space Center:	donna.n.shafer@nasa.gov
Kennedy Space Center:	KSC-Ethics-Advisor@mail.nasa.gov
Langley Research Center:	charles.a.polen@nasa.gov
Marshall Space Flight Center:	audrey.d.robinson@nasa.gov
NASA Headquarters:	ethicsteam@hq.nasa.gov
NASA Residence Office at JPL:	james.t.mahoney@nasa.gov
NASA Shared Services Center:	troy.d.taylor@nasa.gov
Stennis Space Center:	monica.m.ceruti@nasa.gov

This list is subject to revision during the shutdown.

Q. Are employees requesting outside activity approval and/or ethics advice on outside activities authorized to use agency IT equipment to contact their local ethics official and supervisor.

A. Yes.

Q: As a practical matter, what outside employment opportunities are more likely to be viable for NASA employees without written approval during the shutdown?

A: An opportunity that does not involve any of the following circumstances is more likely to meet applicable requirements and not require written approval, subject to specifics of the case and relevant provisions:

- A company, other entity or individual that does or seeks to do business with NASA, such as but not limited to a NASA contractor, subcontractor, grantee or other NASA agreement party.
- An activity involving appearing before or otherwise engaging with or representing to the Federal Government.
- The practice of a profession, such that requires professional licensure, or providing professional consulting services.
- An activity related to an employee's official duties.
- An activity involving NASA's intellectual property.

Employees may also obtain advice from their local ethics contact point on whether a proposed outside activity requires written approval, and would comply with applicable requirements.

Q: What other reference materials are available to guide me?

A: We realize that as employees pursue outside activities during the furlough, including both in person interactions and virtual activities such as on social media, various questions will arise. We urge all employees to exercise care and remain conscientious. Here are some resources that may also help provide guidance:

- The general principles outlining the basic obligation of public service, as expressed in 5 C.F.R. § 2635.101, which can be viewed here: <https://www.govinfo.gov/content/pkg/CFR-2005-title5-vol3/xml/CFR-2005-title5-vol3-sec2635-101.xml>

- The Standards of Conduct for Employees of the Executive Branch, which can be downloaded here:
[https://www.oge.gov/Web/oge.nsf/0/076ABBBFC3B026A785257F14006929A2/\\$FILE/SOC%20as%20of%2081%20FR%2081641%20FINAL.pdf](https://www.oge.gov/Web/oge.nsf/0/076ABBBFC3B026A785257F14006929A2/$FILE/SOC%20as%20of%2081%20FR%2081641%20FINAL.pdf)
- Resources on the U.S. Office of Government Ethics web page here:
<https://www.oge.gov/>
- Resources on the NASA Ethics Program web page here:
https://www.nasa.gov/offices/ogc/general_law/ethics_resources_page.html
- NASA's supplemental ethics regulations here:
<https://www.govinfo.gov/content/pkg/CFR-2016-title5-vol3/xml/CFR-2016-title5-vol3-part6901.xml>