CONSULTING ACTIVITIES B065

11/01/2006

PURPOSE

To provide guidelines for the performance of outside consulting activities by A/P employees.

DEFINITIONS

Outside Consulting: The performance of any non-University professional activity for remuneration such as private practice, professional advice, lecturing, expert witness service, arbitration, government service.

POLICY

Outside Consulting (Non-Government): A/P employees may engage in outside consulting provided such consulting does not (1) interfere with the A/P employee's ability to perform assigned University responsibilities, or (2) knowingly present the possibility of competition between the A/P employee and the University in terms of the service(s) each could provide, or (3) present a potential conflict of interest in, for example, performing services for a supplier of goods or services to the University or testifying against the University. As an example of the first provision, an A/P employee who is likely to be called upon to work evenings or weekends for the University should not accept an opportunity for outside consulting which would interfere with the University's ability to call upon the employee at such times. As an example of the second provision, an A/P employee may not offer professional advice to another organization when such advice would more appropriately be accomplished under a contract between the University and the other organization. To further illustrate the point, an A/P employee may not establish a corporation to offer educational programs which the University also offers or could offer.

Whether or not a request to consult presents a possible conflict of interest is generally decided by the immediate supervisor, and when necessary, the President or appropriate vice president. Further guidelines regarding outside consulting are:

1. A/P employees may not profit from private services while at the same time receiving monies from the University for the performance of the same service.

2. The University assumes no responsibility for private professional services rendered by A/P employees. When A/P employees perform outside consulting, they must inform those who may employ them that their work is not performed as agents of the University. An A/P employee may not use the University of Miami name in any manner or status when advertising for outside consulting work.

3. An A/P employee should not require a status with private enterprise in outside consulting activities which would knowingly present a conflict of interest with the employee's University employment, or which otherwise interferes with the performance of University responsibilities.

4. If University facilities, staff, or equipment are used by an A/P employee in any consulting activity, such consulting is conducted under contract with the University as contractor with the outside consultee.
Consulting For Government Agencies or Other Federal Government Contractors: When A/P employees serve as consultants to a federal agency, their conduct is subject to the provisions of the federal conflict of interest statutes (18 U.S.C. 202-209) and the U.S. Presidential memorandum of May 2, 1963, Preventing Conflicts of Interest on the Part of Special Government Employees. When an A/P employee acts as a consultant for one or more government agencies, contractors, or prospective contractors, care must be taken to avoid giving advice that may be of questionable objectivity. A/P employees should consult the Sponsored Programs Policies & Procedures Manual for further guidelines.

The University is a federal contractor of major dimensions. When A/P employees consult for other federal contractors or for the government, significant conflict of interest situations can easily arise. Financial interests held by A/P employees in federal contractors with which the employee consults, or a technical evaluation of a contractor's work when the University is engaged in the same contracting being evaluated, present examples of conflicts which A/P employees must avoid. Because of the complicated nature of local, state, or federal government or government-related consulting, the President or appropriate vice president should contact the Office of Sponsored Programs prior to approving the request and before such activities may be undertaken.

PROCEDURE

An A/P employee may request permission to perform outside consulting by memorandum to the immediate supervisor. If the supervisor believes that the consulting does not (1) interfere with the A/P employee's ability to perform assigned University responsibilities, and/or (2) knowingly present the possibility of competition between the A/P employee and the University in terms of the service(s) each could provide, or (3) present a potential conflict of interest in, for example, performing services for a supplier of goods or services to the University or testifying against the University, the supervisor may approve the request, forwarding a copy of the approved request to the President or appropriate vice president for inclusion in the employee's official personnel file. If there is no doubt concerning potential conflicts presented by the request to consult, the President or appropriate vice president should be consulted and a final determination made at that level. Consultation for remuneration during regular working hours and government or government-related consulting must have the prior written approval of the President or appropriate vice president after consultation with the Office of Sponsored Programs. Approval for consulting during regular working hours will be handled on an individual basis. A/P employees may be asked by their supervisors to provide, in the form of a memo, an annual report to include time spent and services performed as a consultant for the previous calendar year.