Service on NASA Advisory Committees

- Appointment as Special Government Employee (SGE)
- Defined at 18 U.S.C. 202(a)
  - Anyone who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, for a period not to exceed 130 days out of any 365 days
  - Includes advisory committees
SGE Ethics Rules

Ethics Principles:
- Public service is a public trust
- May not have conflicting financial interests
- May not improperly use nonpublic information
- Avoid even the appearance of impropriety

Status as SGE
- Equivalent to being an insider
- Subject to civil service ethics rules
- Subject to post-employment restrictions
Major Criminal Laws

- Financial Conflicts of Interest
  - 18 U.S.C. 208 & 201

- Representational Conflicts of Interest
  (18 U.S.C 203 & 205)

- Limits on Representation when you leave the government (18 U.S.C. 207)
Financial Conflicts
18 U.S.C. 208

- Prohibits involvement in a particular matter in which the SGE, employer, or spouse or dependent child has a financial interest:
  - An employee is disqualified
  - from participating personally and substantially
  - in any particular matter in which
  - the employee, or anyone whose interests are imputed to the employee, has a financial interest,
  - if the particular matter will have a direct and predictable effect on that interest.
Imputed Interests

- Spouse
- Minor Child
- General Partner
- Organization which the individual serves as officer, director, trustee, general partner or employee
- Person or organization with which the employee is negotiating or has an arrangement for prospective employment
Financial Interests

- Stocks
- Bonds
- Employment
- Consulting arrangements
- Grants, contracts
- Interests through ownership, partnership, LLC (limited liability corps.)
Particular Matter

- Deliberations, decisions, or actions that are focused upon the interests of:
  - Specific persons or entities (EX: contract, grant, agreement)
  - Identifiable class of persons or entities (EX: industry)

- NOT focused on:
  - Broad policy options or considerations
Financial Disclosure

- 2 types:
  - Public (SF-278)
  - Confidential (OGE-450)

- Purpose: Identify potential conflicts of interest to preserve integrity of committee’s work
Conflict of Interest

What should you do?

- Recuse yourself
- Inform your Executive Director
- Seek legal advice
  - Some regulatory exemptions (< $15K)
  - Waiver signed by Administrator
    - in special circumstances
Representational Conflicts

18 U.S.C 203 & 205

- Prohibits representational activities before the Government
- Applies to SGEs only if:
  - Matter involves parties (e.g., contracts)
  - SGE was personally and substantially involved in the particular matter as part of Government service, or
  - SGE served more than 60 days in the previous 365, and matter is pending before the same agency
Post-Employment Restrictions
18 U.S.C. 207

- Permanently prohibits a former employee
- from making, with intent to influence, any communication to the United States,
- on behalf of any other person
- in connection with a particular matter in which the United States is a party or has a substantial interest,
- if the employee was personally and substantially involved in the matter.
Post Employment Restrictions
(one year “cooling off” period)

- Subject to 1 year representational “cooling off” period if
  - If you are paid for services as an SGE, and
  - Your basic rate of pay was at or over a certain amount (= or > than $155,440.50 in 2010), and
  - You served 60 days or more as SGE in last year before leaving advisory comm.

- Restriction on appearances before or communications to NASA (on behalf of another entity)
Standards of Conduct

- **Gift Rules**
  - Anything having monetary value
  - Prohibited Sources
  - Official Position

- **Exceptions**
  - Outside business activities
  - Personal relationships
  - $20/$50 rule
Impartiality

- Must maintain impartiality
- Cannot represent 2 entities at the same time and maintain impartiality
- Apply “Washington Post” test
- When in doubt, recuse yourself.
- Seek legal advice.
NASA Ethics Officials

- Michael C. Wholley, General Counsel
  - Designated Agency Ethics Official

- Adam Greenstone, Ethics Team Lead
  - Alternate Designated Agency Ethics Official

- Headquarters Ethics Team
  - Rebecca Gilchrist, Katie Spear, Mike Monahan, Kathleen Teale, Andrew Falcon (Associate General Counsel for General Law)
  
  (202) 358-2465 or ethicsteam@hq.nasa.gov