

Ethics & Professional Responsibility

Agency attorneys are regularly called upon to conduct internal investigations of agency matters and/or agency personnel. The dynamics change significantly when the agency is the subject of an external investigation—and so do the duties and professional responsibilities of the agency's lawyers (both in-house and outside counsel).

Part 1: Discusses the agency's general counsel's responsibilities to the agency, and duties involving both the agency's response to the external investigation and as to the agency's internal investigation. Significant conflict of interest issues arise. Agency personnel involved in or the subject of the external investigation may request representation by the agency or at the expense of the agency. In most instances, the investigation arrives with little or no notice, events break rapidly, the landscape changes frequently, and invariably the agency and its attorneys must make many significant decisions very quickly.

Part 2: Addresses post-governmental employment ethics issues for attorneys. A lawyer who leaves federal, state, or local government service and becomes employed by a law firm, a state, local government, or a consultant, the limitations on using information learned in government service or as part on using information learned in government service or as part of one's government employment for the benefit or as part of one's private sector employment creates boundaries that are hard to define and difficult to apply. Notwithstanding any "quiet period" imposed by federal or state law, the issues arise and recur years after the lawyer changed from public sector employment to private sector employment—particularly as to P3s, other innovative financing projects and environmental reviews/studies. While many of the problems are fact specific, the presenters will discuss frequently occurring issues and practical solutions.