

To: Regulation Committee
From: Sid Shapiro, Committee Member
Date: 17 October 2016
Subject: Proposal to amend the recommendation

I apologize for missing the last meeting due to a teaching commitment that could not be changed, but I am looking forward to participating in our next meeting. Alissa has indicated to me the changes the committee is considering, and I am in agreement. I would, however, like to raise an issue that I understand was not discussed.

The report (p. 28) states: "Transparency and neutrality are the guiding precepts of an ethics analysis of PPPs." This observation is supported by the third annual State of Global Partnerships Report from 2016, which states: "Successful partnerships entail: complementary equities; **transparency**; mutual benefit; shared risks and rewards; and accountability" (p. 9) (emphasis added). I also noticed that both executive orders and legislation concerning PPPs have "transparency" in their title: President Obama's EO, Transparency and Open Government (p. 18); the Foreign Aid Transparency and Accountability Act of 2016 (p. 25); and the Federal Financial Accountability and Transparency Act of 2006 (p. 28)

Yet, the recommendation does not mention the importance of transparency. Transparency does come up indirectly concerning FACA, and there the recommendation can be read to encourage agencies to avoid FACA and the transparency that it creates. I therefore recommend the following changes:

2. Agencies should consider establishing offices for strategic partnerships. The offices will oversee agency partnership outreach and communication, be responsible for an agency's policy on partnerships, coordinate partnership programs, **ensure the transparency of PPPs to the extent feasible**, and provide training within the agency.

4. Agencies should consider the **role of the** Federal Advisory Committee Act (FACA) **in promoting transparency** when working with private partners in a group setting. However, FACA does not apply unless the government has commissioned a group of private partners that are charged with meeting in order to formulate advice to federal agencies. If FACA does apply to a given interaction with a private partner, the agency, **if necessary**, can make use of the various exemptions, including (a) individual advice, (b) sub-committee, (c) privately formed committee, and (d) individual advice.

Thank you for considering these suggestions.