

SkillBridge Fellows

Legal FAQs

The following information is for general guidance. Please consult a legal professional for formal advice. The Hiring Our Heroes Corporate Fellowship Program is an approved internship program under Department of Defense Instruction 1322.29.

1. Is it legal to have an unpaid intern?

The Fellowship is not unpaid. The service member (Fellow) is required to be on active-duty status for the duration of the Fellowship and is therefore an employee of the Department of Defense receiving full pay and benefits. In fact, per DoDI 1322.29, active duty service members are not eligible to receive additional wages, training stipends, or any other form of financial compensation during participation in a Skillbridge program. For more information, see the American Bar Association Journal of Labor & Employment Law 47, which states, "The risk of potential wage-and-hour liability is far lower for active-duty military interns than for other types, in large part because servicemembers are prohibited by the Department of Defense from receiving any wages or other compensation in exchange for work while participating in a Skillbridge program" and "The Skillbridge intern's military pay thus shields his or her civilian provider from potential wage-and-hour liability, an assurance that does not exist at all in the ordinary internship context."

2. For HR purposes, how should Fellows be classified?

Many host companies classify fellows as contractors or interns, but you are welcome to classify Fellows in whatever way makes the most sense for your company. For additional guidance, please refer to Section II "The Employment Classification of Skillbridge Interns" on page 50 in the aforementioned article in the American Bar Association Journal of Labor & Employment Law.

3. Can I require our Fellow(s) to sign additional documents, such as an NDA?

Yes, host companies are permitted to ask their Fellow(s) to sign company specific documents, e.g. NDAs, computer use agreements, background checks, etc.

4. Isn't it a conflict of interest for service member to participate in a Fellowship with a defense contractor?

Defense contractors large and small have hosted Fellows since the inception of the program without issue. However, rules and restrictions for non-senior service members seeking post-government employment are complex and should be reviewed by your company's legal team when in doubt. In addition, the service member is encouraged to request a written opinion regarding the applicability of post-employment restrictions, especially if they worked in contract procurement or administration while on active duty.

5. How do we track billable hours that are charged to clients?

Fellows cannot incur billable hours on a federal contract. In these instances, the Fellow should job shadow existing staff incurring billable hours or complete internal projects that are not charged to clients.

6. What if the Fellow is injured while on the job?

Active duty service members are considered to be on active duty for 24 hours a day, whether they are technically "on duty" or "off duty" at the time. Therefore, injuries resulting from almost any type of accident while on active duty is considered service-connected, with the exception of willful misconduct, e.g. alcohol or drug abuse. Page 63 of the ABA Journal article referenced above provides additional detail.

7. Can Military Service Members receive gifts or travel benefits or similar perks while participating in a SkillBridge Program?

As a general rule, Service Members may not accept gifts, travel benefits (transportation, lodging, meals) or similar perks from a SkillBridge Industry Partner. However, they may be accepted if available to ALL participants (including members of the general public) from the SkillBridge Partner.

Hiring Our Heroes

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Example 1:

A military Service Member participating in a SkillBridge internship with Company X while in a permissive TDY status. In addition to Service Members, the internship includes members of the general public. If Company X offers to pay for the Service Member's airfare and lodging/meals while participating in the internship, the Service Member may accept the offer if it is also extended to the participating members of the general public.

Example 2:

Near the end of the SkillBridge internship, the participating Service Member is invited to interview with Company X at its headquarters in another state. Company X HQ offers to pay for your interview travel expenses. However, members of the general public who also participate in the internship are not provided travel expenses when invited to an interview. Because the interview travel expenses are not offered to all invitees, the Service Member may NOT accept the travel expenses from Company X to attend the interview at the HQ.

Service Members and their Chain of Command should discuss the unique circumstances of any gift/benefits offer with their servicing Legal Office before accepting them.

Additional References:

[US Department of Labor Opinion Letters](#) released November 8, 2019

[Department of Defense Skillbridge FAQ's](#)