

UNITED STATES DEPARTMENT OF COMMERCE

**SUMMARY OF ETHICS RULES
2008**



**Ethics Law and Programs Division
Office of the Assistant General Counsel for Administration**



**202-482-5384 – ethicsdivision@doc.gov
www.ogc.doc.gov/ethics.html**



PUBLIC SERVICE IS A PUBLIC TRUST

As a Department of Commerce employee, you have been placed in a position of trust and are held to a high standard of ethical conduct. This handout contains a summary of the rules set forth in conflict of interest statutes and the *Standards of Ethical Conduct for Employees of the Executive Branch*. You should retain this handout for use as a reference source.

Office of the Assistant General Counsel for Administration

To obtain legal advice regarding ethics issues, contact the:

Ethics Law and Programs Division at 202-482-5384 (or ethicsdivision@doc.gov) for advice regarding conflict of interest laws and rules of conduct.

To obtain legal advice regarding other administrative law issues, call the following offices:

Employment and Labor Law Division at 202-482-5017 – for advice regarding employment law and labor law issues

General Law Division at 202-482-5391 – for advice regarding appropriations laws, joint projects, preservation and release of documents, and general administrative law issues.

Designated Agency Ethics Official:
John J. Sullivan, General Counsel

Alternate Designated Agency Ethics Official:
Barbara S. Fredericks, Assistant General Counsel for Administration

Office of Inspector General – The Ethics Law and Programs Division provides advice but does not investigate allegations of violations of law. To report fraud, waste, abuse, or other violations of law, or to request an investigation, call the Office of Inspector General Hotline at 800-424-5197 or 202-482-2495 or e-mail hotline@oig.doc.gov.

GENERAL ETHICAL PRINCIPLES

1. *Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.*
2. *Employees shall not hold financial interests that conflict with the conscientious performance of duty.*
3. *Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.*
4. *An employee shall not, except as permitted in ethics regulations, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or non-performance of the employee's duties.*
5. *Employees shall put forth honest effort in the performance of their duties.*
6. *Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.*
7. *Employees shall not use public office for private gain.*
8. *Employees shall act impartially and not give preferential treatment to any private organization or individual.*
9. *Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.*
10. *Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.*
11. *Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.*
12. *Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those—such as Federal, State, or local taxes—that are imposed by law.*
13. *Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.*
14. *Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in ethics regulations. Whether particular situations create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.*

FINANCIAL CONFLICTS OF INTEREST

Basic Principle: No Self-Dealing

One of the most basic of the conflict of interest rules concerns self-dealing. To ensure public confidence in the integrity of the Government and its employees, a conflict of interest statute provides that you may not be placed in a position where you will be called upon to act on a matter in which your personal financial interests (or the interests of those close to you) may differ from the goals and interests of the Government, thereby creating a “conflict of interest.” Such a conflict is resolved by having you disqualify (or “recuse”) yourself from participating in any matter creating a conflict of interest (unless an exemption applies allowing your participation).

General Rule. You may not participate as a Government official in a matter that will have a direct and predictable effect on your financial interests; on the financial interests of your spouse, minor children, household members, general partners, outside employers, or prospective employers; or on the financial interests of an organization in which you serve as a trustee, officer, or board member. This includes a matter that affects a company in which you own stock.

Exemptions from the General Rule. Exemptions permit you to participate in matters affecting a financial interest if the financial interest is:

- a holding in a diversified mutual fund;
- a holding in an industry sector-specific mutual fund or geographic sector-specific mutual fund of \$50,000 or less (if interests in all such funds are \$50,000 or less);
- a publicly-traded stock or bond holding of \$15,000 or less in a company;
- a publicly-traded stock or bond holding of \$25,000 or less in a company with regard to a matter in which it is not a party (and, if it a broad policy matter, if total holdings in the industry or group affected by the matter are \$50,000 or less); or
- not substantial and for which you have received a conflict of interest waiver through the Ethics Law and Programs Division. (Such waivers are generally available only for employees serving overseas under current Department policy.)

Special Rule for U.S. Patent and Trademark Office Employees. USPTO employees are barred from applying for a patent or acquiring, directly or indirectly, except by inheritance or bequest, any right or interest in a patent issued by USPTO.

APPEARANCES OF BIAS (NON-FINANCIAL CONFLICTS OF INTEREST)

Basic Principle: No Special Favors

Because the public must have confidence in the Government and its employees, it is not enough for you just to avoid situations that create a conflict of interest between your official duties and your financial interests; you must also avoid situations that give rise to an appearance of a conflict of interest based on personal relationships. There may be a matter on which you are asked to work that presents no actual financial conflict of interest, but that may, because the matter involves persons with whom you have close ties, create an appearance of impropriety or loss of objectivity.

General Rule. You may not participate in matters in which certain persons with whom you have close ties (“covered relationships”) are parties or are representing parties if your participation would cause an appearance of loss of impartiality. Persons with whom you have a “covered relationship” include:

- persons with whom you have or are seeking business or financial relationships;
- household members;
- close relatives;
- employers and clients of your parents, dependent children, and spouse (and their prospective employers and clients);
- former non-Federal employers and clients (for one or two years depending on the value of any severance payment); and
- organizations (other than political parties) in which you are an active participant.

Exception to the General Rule. You may be able to work on a matter in which someone with whom you have a covered relationship is a party or represents a party if the Government’s need for your participation outweighs a concern that someone may question the integrity of the Department’s programs and operations. However, before you participate in such a matter, you must receive authorization to do so. Contact the Ethics Law and Programs Division of the Office of the Assistant General Counsel for Administration to obtain such authorization.

GIFTS, BRIBES, AND SALARY SUPPLEMENTATION

Basic Principle: Avoid Undue Influence

The United States Government, like all governments, recognizes that the acceptance of bribes is the most basic form of corruption. Similarly, gratuities and salary supplementation from persons with matters before the Government may create an appearance of undue influence on Government workers.

Rules concerning Bribes and Salary Supplementation. You may not receive anything of value from a non-Government source for taking action or failing to take action in your Government position. You also may not accept payment for performing your Federal duties from a source other than the United States Government.

General Rule concerning Personal Gifts from Non-Federal Sources. Generally you may not accept a personal gift from anyone who has or is seeking business with the Department, is regulated by the Department, is seeking action by the Department, or has interests that may be affected by performance of your Government duties. You also may not accept gifts given to you because of your Government position. Gifts to your spouse or minor children are considered gifts to you in most circumstances.

Exceptions to the General Rule concerning Personal Gifts from non-Federal sources. You may accept:

- items of little intrinsic value (greeting cards, plaques, trophies);
- gifts of \$20 or less (other than cash) (up to \$50 per year from the same donor);
- invitations to widely-attended events (if from the host (generally) and if your supervisor approves attendance as being in the Department's interest);
- gifts from relatives or friends (if based on a personal relationship);
- discounts available to a broad range of persons;
- awards and honorary degrees (in specified circumstances);
- meals, lodging, and travel if based on an outside business relationship;
- business meals overseas, if a foreign national or representative of a foreign entity is present (up to the *per diem* for the city); and
- gifts from a foreign government of \$335 or less (a gift of over \$335 may be accepted, but becomes property of the United States Government).

General Rule concerning Gifts between Employees. You may not offer a gift to a supervisor or accept a gift from a subordinate.

Exceptions to the General Rule concerning Gifts between Employees. You may offer to a supervisor and accept from a subordinate:

- a gift on a special, infrequent occasion (such as the birth or adoption of a child, recovery from a serious illness, retirement, or a wedding);
- items of \$10 or less, given occasionally;
- food shared in the office;
- personal hospitality at one's home; and
- a gift to a host or hostess.

General Rule concerning Gifts to the Government. You may, on behalf of the Department and with the approval of the appropriate official in your agency, accept donations to support agency programs and activities. However, except in rare circumstances, you may not accept a gift for your agency from a donor that is an agency contractor or grantee or is a member of an industry regulated by your agency. You also may not accept a gift from a donor if the circumstances would create an appearance of loss of impartiality by you or your agency.

Gifts for Official Travel. Although you may accept payment for official travel from a non-Federal source, you may not solicit such gifts. If the gift is in the form of an in-kind contribution (i.e., hotel room or airline ticket rather than reimbursement for accommodations or transportation expenses), you are not limited to the amount that is authorized for travel expenditures under Federal Travel Regulations, if such travel arrangements are being provided for similarly-situated non-Federal participants. However, you may not accept first-class airline tickets.

Honoraria to the Government. Under current Department policy, you may not accept an honorarium for your agency in connection with a speech or appearance in your official capacity.

Special Approval Requirements for Gifts to the Department. You must receive approval from the Secretary for a gift to your agency valued at more than \$35,000 and approval from the Assistant Secretary for Administration for a gift of real property, a gift that imposes conditions on the agency, or a travel gift that is valued at \$500 or more over expenses authorized by Federal Travel Regulations.

OUTSIDE EMPLOYMENT AND ACTIVITIES

Basic Principle: Avoid Divided Loyalties

Working for the Federal Government does not preclude other employment, but your non-Government employment and activities may not conflict with your Federal job.

General Rule on Outside Employment. You may not engage in outside employment or other activities that conflict with your Government position, including activities that require disqualification from significant Government duties or that create an appearance of use of your public office for personal benefit. There are special rules for practicing law, writing or teaching for compensation, and working overseas. Contact the Ethics Law and Programs Division for specific advice regarding these special rules.

Working for a Foreign Government. The U.S. Constitution bars you from working for, or receiving compensation from, a foreign government, except as authorized by statute. NIST employees may accept foreign government fellowships, in some circumstances.

General Rule on Contacting the Government and Receiving Payments for Contacts by Others. You may not, in general, act as an agent or attorney or, if paid, otherwise represent others before any Federal agency or Federal court in your personal capacity. Representation includes any contact made on behalf of someone with the intent to influence Government action. In addition, you are barred from receiving a payment based on representational activities of others, such as a partner, before a Federal agency or Federal court during a period in which you serve as a Federal employee.

Exceptions to the Rule on Contacting the Government. You may represent other Federal employees in some personnel disputes if you do not receive compensation and you may represent your parents, spouse, or children, or an estate or trust, if you receive prior approval. (Contact the Ethics Law and Programs Division, at 202-482-5384, to obtain approval.) You may also represent (without pay), professional, recreational, and similar groups the majority of whose members are Federal employees or their spouses or dependents, if the matter does not involve a claim against the Government, a proceeding in which the organization is a party, or Federal funds to the organization.

POLITICAL ACTIVITIES

Basic Principle: Keep Government and Political Activities Separate

Rules on political activities help ensure a separation between Government activities and partisan activities.

General Restrictions concerning Engaging in Political Activities. Unless you serve as a Presidential Appointee in a Senate-confirmed position (PAS), you may not engage in partisan political activities while on Government premises or while on official duty.

Regardless of your Government position, you may not:

- use the authority of your position for partisan political purposes,
- use Government resources, including your official title, for political activities;
- solicit, accept or receive a political contribution or host a political fund-raiser (except that a Federal union member may solicit for a multi-candidate political committee of the union from other union members who are not subordinates),
- run as a candidate in a partisan election (except as an independent candidate in certain designated areas, including the suburbs of Washington, D.C.); or
- solicit or accept volunteer services from a subordinate.

Permissible Activities. You may actively engage in political campaign activities during non-duty hours (except as listed above and unless you are a career Senior Executive Service member, an administrative law judge, or a NOAA Corps officer), including:

- assisting in the management of a campaign;
- serving as an officer in a political organization;
- giving speeches and soliciting votes (but not funds) for a candidate;
- making telephone calls or stuffing envelopes on behalf of a campaign
- speaking at a fund-raising event (if you do not ask for funds).

Special Rules for Career SES Members, ALJs, and NOAA Corps Officers. If you are a career member of the Senior Executive Service, an administrative law judge, or a NOAA Corps officer, you may not actively assist in the conduct of a partisan campaign or serve as an officer in a political organization. However, during non-duty hours you may actively participate in nonpartisan elections and non-candidate campaigns, such as for referenda. For partisan campaigns, you may vote, donate funds, sign nominating petitions, express your views publicly, and engage in similar activities.

MISUSE OF GOVERNMENT RESOURCES

Basic Principle: Do Not Steal

Appropriated funds, agency gift funds, and other Commerce resources are provided to support Government activities and may be used only for authorized purposes.

General Rules. You may only use Government resources, including Government equipment, supplies, services, and duty time, for authorized purposes. You may not use your official title in connection with your personal activities. Furthermore, nonpublic information you learn through your Federal job may not be used for personal purposes, including nonpublic trade data, economic analyses, census data, private personnel information, and other nonpublic information, unless the information is readily available to the public. You also may not use your Government authority, including business contacts obtained through Federal employment, for personal non-official activities.

Exceptions to the General Rules regarding Use of Your Title and Frequent Flier Benefits. You may use your Government title for personal activities as part of general biographical data if it is given no more prominence than other significant biographical details. You may use frequent flier miles and other benefits obtained from Government travel for personal purposes, including personal travel or upgrades on official travel.

Rule on the Use of the Internet and E-mail. You may use office access to e-mail and the Internet for personal activities if your use does not interfere with office business, is not prohibited by your agency, and you do not use such access for:

- private commercial business activities or profit-making ventures;
- partisan political activities;
- prohibited lobbying activities;
- uses that result in additional charges to the Government;
- engaging in prohibited discriminatory conduct;
- obtaining or viewing sexually explicit material;
- any activity that would bring discredit on the Department; or
- any violation of a statute or regulation.

You may use office printers for personal Internet and e-mail uses if it does not consume excessive resources.

SEEKING EMPLOYMENT AND POST-EMPLOYMENT ACTIVITIES

Basic Principle: Avoid Divided Loyalties

Seeking Employment. Once you begin to seek non-Federal employment, you may not work on any matter affecting a prospective employer. This disqualification continues until employment discussions end or until two months have passed with no response after you submitted an unsolicited application or résumé. If you are participating in a procurement over \$100,000, you must notify your supervisor and an ethics official of any employment contacts with or from a competing contractor.

Post-Employment Restrictions. After you leave Federal service, you may not:

- represent anyone (meaning communicate on someone else's behalf with the intent to influence) before any Federal agency or Federal court concerning:
 - a specific-party matter on which you worked, or
 - a specific-party matter on which a subordinate worked (or was otherwise under your official responsibility) during your last year of Federal service (for 2 years after leaving Federal service);
- disclose or use protected nonpublic information, such as information obtained during a treaty negotiation, trade secrets, and proprietary business information;
- if you served as a "senior employee" (had a base pay equal to or greater than \$148,953 per year), for 1 year after leaving Federal service:
 - represent anyone before your former agency, or
 - advise or represent a foreign government or foreign political party; or
- if you served as a procurement official, program manager, or deputy program manager, for 1 year accept compensation from the winning contractor of a major procurement (over \$10,000,000).

Exceptions and Special Rules. There are exceptions to some post-employment rules regarding testifying under oath and representing state and local governments, international organizations, educational institutions, and medical institutions. There are also special rules applicable to attorneys, to USPTO employees (regarding obtaining patent rights), to EDA grant officials, and to employees who receive buyouts. Contact the Ethics Law and Programs Division at 202-482-5384 for a handout on these rules.

FINANCIAL DISCLOSURE

Basic Principle: Tell the Whole Truth

If you are a Presidential Appointee, member of the Senior Executive Service (SES), employee in non-career policy-making positions, procurement official, or other employee whose performance of Federal duties could have a significant impact on the interests of members of the public, you are required to file a financial disclosure reports annually. If you are an SES member, non-career employee, or Presidential appointee, you will also need to file a report within 30 days after leaving Federal service.

Basic Guidelines. If you are designated as required to file a financial disclosure report, please keep in mind that the information you disclose is used to provide advice to you to help ensure that you do not inadvertently engage in prohibited activities. To give you this advice (and to certify that the report includes all necessary information), it is important that the information you provide be as complete as possible. Specifically, please be sure to include the following information:

- specific holdings in any IRA, 401(k) account, trust, or investment account;
- a short description of the activities or industry sector of any privately-held company or limited partnership;
- assets and sources of income of your spouse and dependant children; and
- if you are an SES member or non-career employee, the full name of any mutual fund in which you have an interest (other employees file confidential, rather than public, financial disclosure reports and no longer need not to report mutual funds on such reports).

If you have a question, or need assistance in filling out your report, contact the Ethics Law and Programs Division at 202-482-5384.

**For advice regarding any ethics rule, contact the
Ethics Law and Programs Division at 202-482-5384.**

EXAMPLES

NO PROBLEM

1. An employee works on a contract with a company in which she holds \$8,000 worth of publicly-traded stock.
2. An analyst works on a grant application from a company for which he worked 3 years ago.
3. An employee accepts a \$15 lunch from an agency grantee.
4. A GS-12 employee makes calls for a partisan candidate during non-duty hours from her home.
5. For an outside tax business, an employee submits tax forms to the IRS on behalf of clients.
6. An employee writes a letter of recommendation for a non-Federal job on agency letterhead for a subordinate.
7. An employee buys a meal while on official travel using her Government credit card.
8. A former GS-12 employee submits her new employer's grant proposal to her former agency within one year of leaving the Department.

PROBLEM

1. An employee works on a contract with a company in which she holds \$18,000 worth of publicly-traded stock.
2. An analyst works on a grant application from a company for which he worked 3 months ago.
3. An employee accepts a \$25 lunch from an agency grantee.
4. A career member of the SES makes calls for a partisan candidate during non-duty hours from her home.
5. For an outside tax business, an employee submits pleadings in disputes to the IRS on behalf of clients.
6. An employee writes a letter of recommendation for a non-Federal job on agency letterhead for a friend.
7. An employee buys baseball tickets while on official travel using her Government credit card.
7. A former senior employee submits her new employer's grant proposal to her former agency within one year of leaving the Department.

CITATIONS TO APPLICABLE LAW

Financial Conflicts of Interest

18 United States Code (U.S.C.) § 208; 35 U.S.C. § 4
5 Code of Federal Regulations (C.F.R.) §§ 2635.401-2635.403,
2640.201-2640.202
3 Foreign Affairs Manual (FAM) Part 4120

Appearances of Bias (Non-Financial Conflicts of Interest)

5 C.F.R. §§ 2635.502-2635.503

Gifts, Bribes, and Salary Supplementation

5 U.S.C. §§ 7342, 7351, and 7353; 15 U.S.C. § 1522; 18 U.S.C. §§ 201 and 209
5 C.F.R. §§ 2635.201-2635.205, 2635.301-2635-304; 41 C.F.R. Part 304-1

Outside Employment and Activities

18 U.S.C. §§ 203 and 205
5 C.F.R. §§ 2635.801-2635.809
3 FAM Part 4120

Political Activities

5 U.S.C. §§ 7321-7326
5 C.F.R. §§ 733.101-735.203

Misuse of Government Position and Resources

18 U.S.C. § 641
5 C.F.R. §§ 2635.701-2635.705
Department of Commerce Internet Use Policy

Seeking Employment and Post-Employment Activities

18 U.S.C. § 207; 41 U.S.C. § 423
5 C.F.R. Parts 2635, 2637, and 2641; 15 C.F.R. §§ 15.11-15.18

Prepared by the Ethics Law and Programs Division, Office of the Assistant General Counsel for Administration, U.S. Department of Commerce – January 9, 2008