

USNRC

OIG INFORMATION DIGEST

What Is a Conflict-of-Interest?

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Nuclear Regulatory Commission (NRC) part-time and full-time employees are subject to Federal laws and regulations on ethics. These include the criminal conflict-of-interest statutes (Title 18, Sections 201-209, of the U.S. Code) and standards of conduct regulations found in Title 5, Part 2635, of the Code of Federal Regulations (CFR). Conflict-of-interest is the term used to describe situations where a Government employee's personal (usually financial) interests clash with the interests of the Government.



Employees can encounter conflict-of-interest situations throughout the contracting process and through association with licensee employees. The workplace often necessitates close working relationships with contractors and licensees who are vital to this agency and who perform many important services. However, employees need to be mindful that contractors and licensees are not NRC employees and are not subject to the same rules, regulations, and policies on ethics.

NRC employees should always maintain an arms-length relationship with

contractors or anyone seeking business with the agency. It is a basic obligation of public service that employees act impartially and not give preferential treatment to any private organization or individual. Even the appearance of partiality or preferential treatment violates Government regulations and could result in disciplinary action or civil sanctions. Therefore, it is essential that NRC employees show no favoritism to contractors or even appear to be partial in their interactions with contractor employees.

NRC employees are encouraged to contact an ethics counselor in the Office of the General Counsel (OGC), a Regional Counsel, or their supervisor for questions concerning contractor relationships or other situations that could be construed as a conflict-of-interest or otherwise pose an ethical problem. Employees should ask questions before engaging in these activities if they are uncertain at what point these activities become problematic. The following are activities that generally could constitute a conflict-of-interest unless allowed by law or regulation.

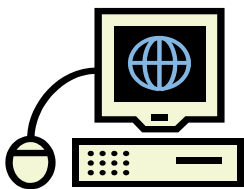
- Accepting gifts from contractors, licensees, or anyone else who has interests that the employee can affect.
- Giving gifts to official NRC superiors.
- Working on particular Government matters affecting your financial interests or-



What Is a Conflict-of-Interest? (cont. from page 1)

those with whom you have certain personal or business ties.

- Seeking or applying for employment with anyone if you are also participating in an NRC matter affecting that party's interest.
- Accepting outside employment with a licensee, contractor, or anyone in the nuclear field without prior written approval.
- Accepting anything of value in connection with the performance of your official duties or as supplementation of your Federal salary.
- Representing anyone in the private sector to Federal agencies or courts or sharing compensation for any such representation made by you or anyone else.
- Participating in partisan political activities while on official duty or using NRC resources, including computer or phones, for such purposes.
- Misuse of position, time, and equipment. (Employees should not use any NRC equipment or supplies for a personal business or charity.)
- Disclosing non-public information without authorization.



The NRC Office of the Inspector General (OIG) investigates various types of conflict-of-interest cases involving outside employment issues, ownership of prohibited securities, contract issues, acceptance of gifts and gratuities, socializing with contractors, and other prohibited activities. For a more

comprehensive explanation of potential ethics violations, please visit <http://www.internal.nrc.gov/OGC/ETHICS/> and other areas within the OGC Web site.

This *Information Digest* issue features a selection of NRC OIG cases and cases from other agencies that involved conflict-of-interest issues.

OIG Cases and Examples

Inappropriate Solicitation of Employment by an NRC Inspector to a Licensee Not Substantiated



OIG conducted an investigation based on an allegation from a licensee employee that an NRC physical security inspector inappropriately solicited employment from the licensee staff. Specifically, the licensee employee alleged that the NRC inspector mentioned to the staff that he could fix the licensee's security problems in exchange for employment. Additionally, the licensee employee alleged that the NRC inspector provided the licensee staff with a note containing the NRC inspector's home address. Based on the note, the licensee employee believed that the NRC inspector was interested in a position.

OIG determined that the NRC inspector did not solicit employment from the licensee staff. The staff, to whom the NRC inspector allegedly made the comment about his ability

to fix the security problems, denied ever hearing the NRC inspector ask for employment or make the statement. In addition, OIG found that the NRC inspector was conducting an inspection when he received separate concerns that questioned the licensee's employment practices. Subsequently, the NRC inspector posed questions about the employment process, including where applications were posted. The licensee employee did not have the employment information readily available; therefore, the NRC inspector provided his home address on a note to allow the employee to mail to him the information related to the employment issues. OIG learned that it was acceptable for the NRC inspector to provide his personal mailing address to the licensee employee to facilitate receiving inspection information. Moreover, it would have also been appropriate for the NRC inspector to have requested general information, such as employment applications, from licensee employees for personal purposes.

NRC Employee Supports Contract Bid



An OIG investigation found that an NRC employee had requested a sole source purchase order to rent specialized

OIG Cases and Examples (cont. from page 2)

research equipment at a university science department where the employee's spouse was employed as department chair. The NRC employee had been detailed to the university for various periods between 1991 and 2007 to conduct research in support of an interagency agreement between NRC and another Federal agency.

After NRC contracting officials determined a sole

source purchase was not justified and that the award should be competitively bid, the employee assisted in drafting the university's proposal, which was signed by the employee's spouse and submitted to NRC. The university was the only bidder and was awarded the purchase order. The NRC employee admitted assisting with the preparation of the proposal, including the detailing of the costs associated with renting the equipment. The NRC employee insisted that the equipment at the university was the best for this specific research work.

OIG found no indication that the NRC employee or the spouse benefited financially from this NRC purchase order, or that an attempt was made to conceal the spouse's position at the university from NRC officials. The



NRC employee resigned from the NRC.

NRC Employee Works for Industry Lobbyist Prior to Resignation

OIG initiated this investigation based on information from an NRC office that an NRC employee had accepted a position with a nuclear industry lobbyist while still employed with NRC.

OIG found that the NRC employee began employment on January 2, 2008, with a nuclear industry lobbyist while in a use-or-lose leave status prior to his planned January 6, 2008, resignation from NRC. The engineer's new position did not conflict with any work he was involved in at NRC.

OIG determined that the employee submitted his resignation to NRC on December 21, 2007, effective January 6, 2008. However, his manager did not accept the resignation and requested him to return to work after his resignation date to complete paperwork needed to process the resignation. The employee, who made no attempt to rescind his resignation, returned on January 7, 2008, to complete the required paperwork.

On January 9, 2008, the supervisor learned that the engineer

was employed by the nuclear lobbyist, and instructed the employee to return to work at the NRC.

OIG reviewed Title 5 CFR 715.202(b), *withdrawal of resignation*, which states "An agency may permit an employee to withdraw his resignation at any time **before** it has become effective," and learned that, because the employee made no attempt to rescind his resignation prior to his effective date, he effectively was no longer an employee of the NRC.

OIG also learned from the NRC Office of Human Resources that processing out of an agency is an administrative function and not a regulatory requirement.

OIG learned that due to the NRC's misunderstanding of the effectiveness of the engineer's January 6, 2008, resignation, the engineer was allowed to resign from the NRC effective January 19, 2008.



Other Agency Investigations

Other Agency Investigations

Ohio Mayor Charged With Concealing Financial Interest in Son's Business

<http://cleveland.fbi.gov/dojpressrel/2006/mailfraud121106.htm>

The Northern District of Ohio filed a criminal information against an Ohio mayor, charging him with five counts of mail fraud and three counts of filing false tax returns. The mail fraud counts allege that while mayor he deprived the citizens of the city of the intangible right of his honest services by concealing a conflict-of-interest arising from his secret interest in his son's lawn mowing business. As mayor, he made decisions affecting the funding of Neighborhood Development Services (NDS), which, in



turn, hired his son's lawn mowing business.

The tax counts allege that the mayor failed to report his income from that business on his Federal tax returns.

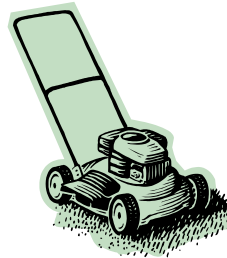
During the time that he was Mayor, NDS was a non-profit Ohio corporation which was formed in 1985 to pursue the development of affordable housing, an improved downtown, and a stronger local economy. NDS Management, funded by Federal grants that passed through the city, was a for-profit company that provided management services

to properties owned and operated by NDS.

The information alleges that during the period 2001 through 2004, the Mayor operated and received income from Lawn Mowing Service, a sole proprietorship in the name of the Mayor's son, which mowed lawns and removed snow for NDS, NDS Management, and other customers. These customers paid Lawn Mowing Service more than \$262,068 from 2001 through

2005. The information also alleges that the mayor knew that in his capacity as mayor, he had a conflict-of-interest as a result of the income he received from his son's business and that he intentionally attempted to conceal the conflict-of-interest by (1) reporting income (although not all the income) from the lawn mowing service on his son's tax returns (resulting in application of a lower tax rate on the income) and (2) intentionally failing to report his interest in and his income from Lawn Mowing Service on his annual Ohio Ethics Commission Financial Disclosure Statements for the years 2001 through 2005.

If convicted, the defendant's sentence will be determined by the Court under the Federal Sentencing Guidelines which depend upon a number of factors unique to each case, including the defendant's prior criminal record, if any, his role in the offense, and the characteristics of the violation.



Former Massachusetts Official Accused of Negotiating Employment With Firm While Awarding Grant Payments to Firm Clients

<http://www.usdoj.gov/oig/semiannual/0705/ojp.htm>

A joint investigation by Federal and State officials led to allegations that a former Director of Programs at the Massachusetts Executive Office of Public Safety violated State ethics laws by negotiating employment with a company while simultaneously awarding Department of Justice Office of Justice Programs (OJP) grant funds to clients of that company. The Massachusetts State Ethics Commission filed an Order to Show Cause advising that the Commission will take disciplinary measures against the former Director of Programs unless he provides justification for his actions. The Order to Show Cause alleges that the former Director of Programs negotiated employment with a public safety consulting firm while at the same time he approved nearly \$1.12 million in OJP grant payments to clients of the firm.



The investigation found that during his tenure as Director of Programs, he made numerous

Other Agency Investigations (cont. from page 4)

relationships with the consulting firm, which earned approximately \$2 million in fees for securing these grant funds. After the Director of Programs resigned from his position with the Commonwealth of Massachusetts he accepted a position with the consulting firm.

UNICOR Manager Arrested for Negotiating Post-Government Job with UNICOR Vendor

<http://www.usdoj.gov/oig/semiannual/0711/bop.htm>

An investigation by DOJ OIG's Washington Field Office led to the arrest and guilty plea of a Bureau of Prisons Federal Prison Industries, Inc. (UNICOR) general manager, previously assigned to the UNICOR Central Office in Washington, DC, to a conflict-of-interest violation. UNICOR is a self-sustaining, self-funded corporation

established in 1934 by executive order to create a voluntary real-world work program to train Federal inmates.



Investigators developed evidence that

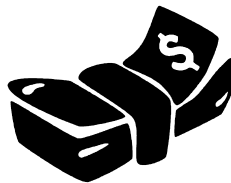
in early 2004 the UNICOR general manager negotiated a post-Government position with a UNICOR vendor with whom he was substantially involved in his capacity as general manager. After accepting an offer of future employment, the UNICOR general manager directed a \$250,000 sole source contract to the vendor without disclosing his financial interest in the matter to anyone in the Gov-

ernment. The UNICOR general manager retired 3 months later and began working for the vendor, collecting \$20,000 in salary over the next 5 months. Sentencing in the Western District of Tennessee is pending.

DEA Federal Agent Sentenced for Accepting Checks From Vendor

<http://www.usdoj.gov/oig/semiannual/0711/dea.htm>

In its March 2007 *Semiannual Report to Congress*, DOJ reported on a joint investigation by the OIG's Los Angeles Field Office and the Drug Enforcement Administration's (DEA) Office of Professional Responsibility that resulted in the arrest of a DEA contracting officer on charges of corruptly profiting from his employment as a Federal agent and making a false statement. The joint investigation developed evidence that the contracting officer received for his personal use 21 checks totaling \$13,442 from a DEA vendor whose contract he managed. The contracting officer also failed to disclose on his financial disclosure form the funds he received from the vendor. The contracting officer was sentenced on conflict-of-interest charges to 2 years probation and ordered to pay a \$13,517 fine and perform 50 hours of community service.



Two Cases Involving the Broadcasting Board of Governors

<http://oig.state.gov/documents/organization/88720.pdf>

The Department of State OIG conducted a joint investigation with the Federal Bureau of Investigation into allegations of possible kickbacks being received by a Broadcasting Board of Governors (BBG) employee from two vendors and knowing that it was a conflict-of-interest and three counts of making false statements.

On February 13, 2007, the subject pled guilty to the conflict-of-interest charge, admitting that he knowingly and willfully received unauthorized payments from the vendors in the amount of approximately \$112,000. On March 20, 2007, BBG sent a letter to the employee proposing the termination of his employment with the agency. On April 18, 2007, the employee was sentenced to 27 months in jail and 3 years of supervised probation upon his release. He was also ordered to pay a \$5,000 fine and an additional \$3,000 in legal fees for his court appointed attorney.



Other Agency Investigations (cont. from page 5)

In the second case, a senior BBG employee oversaw the disbursement of \$92,000 in training grant funds to a grantee, which then subcontracted with a company headed by the BBG employee's wife. On January 14, 2004, the BBG



employee pleaded guilty in U.S. District Court to one count of violating 18 U.S.C. 208. The employee was terminated from his position with BBG and was debarred from doing business with BBG for 3 years. On May 6, 2004, the employee was

sentenced to 3 years probation and 50 hours of community service. He was also fined \$1,000, ordered to pay restitution of \$15,064, and had to pay a \$25 special assessment.

NRC Ethics Advice

You are encouraged to consult an ethics counselor in the Office of the General Counsel, your regional counsel, or your supervisor before engaging in an activity that you feel might result in a violation of the ethics laws or regulations or if you have any questions relating to any other ethics issues. You can find the names and e-mail addresses of the ethics counselors on the "Ethics" Web site on the NRC Internal Home Page. This Web site also contains the major ethics regulations, NRC Management Directives, financial disclosure forms, the Prohibited Securities list training modules, and ethics articles.

OIG HOTLINE

800-233-3497

We're on the Web!!

Go to this Web site for answers and training concerning conflict-of-interest.

www.internal.nrc.gov/OGC/ETHICS