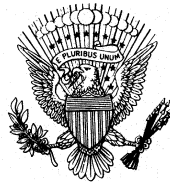


UNITED STATES
DEPARTMENT OF COMMERCE

SUMMARY OF ETHICS
RULES
FOR
SPECIAL GOVERNMENT
EMPLOYEES
2009



UNITED STATES
DEPARTMENT OF COMMERCE
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

The role of consultants and advisors and other limited-service employees is vital to the effective functioning of the Federal Government. All employees are held to a high standard of conduct. As an employee who serves less than 130 days per year, you are considered a “special Government employee” and are subject to many, but not all, of the ethics rules applicable to Government employees who serve for longer periods of time. This document is intended to help familiarize you with those rules.

If you have a question regarding an ethics issue, contact the Ethics Law and Programs Division of the Office of the Assistant General Counsel for Administration at 202-482-5384 or ethicsdivision@doc.gov.

Designated Agency Ethics Official:

Barbara S. Fredericks, Assistant General Counsel for Administration

Alternate Designated Agency Ethics Official:

David Maggi, Chief, Ethics Law and Programs Division

FINANCIAL CONFLICTS OF INTEREST

Basic Principle: No Self-Dealing

One of the most basic ethics rules concerns self-dealing. To ensure public confidence in the integrity of the Government, a conflict of interest statute prohibits you from working as a Government official on a matter affecting your personal financial interests (or the interests of those close to you). Such participation would create a conflict between your personal interests and your duty to the Government.

General Rule. You may not participate as a Government official on a matter that will have a direct and predictable effect on your financial interests or those of your spouse, minor children, or general partners; persons with whom you are seeking employment; organizations for which you serve as an officer, director, trustee, general partner, or employee; or, with regard to a matter involving specific parties, a member of your household (unless an exemption applies or you receive a conflict of interest waiver). 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 regarding 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);
- the financial interest of a non-Federal employer (if you are a member of a Federal advisory committee); or
- one for which you have received a conflict of interest waiver.

Conflict of Interest Exemptions and Waivers. If you serve on a Federal advisory committee, a waiver of the disqualification requirement is available if necessary to effectively serve on the committee. To obtain a conflict of interest waiver, contact the Ethics Law and Programs Division at 202-482-5384.

APPEARANCES OF BIAS (NON-FINANCIAL CONFLICTS OF INTEREST)

Basic Principle: No Special Favors

Because the public must have confidence in the Government and the impartiality of its employees, it is important that you avoid situations that may give rise to an appearance of a conflict of interest based on your personal relationships. There may be a matter on which you are asked to work that will not create an actual financial conflict of interest, but may, because the matter involves someone with whom you have close ties, create an appearance of favoritism or loss of objectivity.

General Rule. You may not participate in a matter involving specific parties if a person with whom you have close ties (a “covered relationship”) is a party or is representing a party in the matter and if your participation would create an appearance of loss of impartiality (unless you receive specific authorization to participate in the matter).

Persons with whom you have a “covered relationship” include:

- persons with whom you have business or financial relationships or are seeking such relationships (other than routine consumer transactions);
- 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 amount 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 interest of the Government in 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 at 202-482-5384 to obtain an authorization if such a situation arises.

BRIBES AND GIFTS

Basic Principle: Avoid Undue Influence

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

General Rule concerning Bribes. You may not receive anything of value for taking action or failing to take action in your Government position.

General Rules concerning Personal Gifts. You may not accept gifts from a person or firm that has or is seeking business with the Department of Commerce, that is seeking action by Commerce, or that is regulated by the Department, unless an exception applies. You also may not accept gifts that are given to you because of your Government position, unless an exception applies.

Exceptions to the General Rules concerning Personal Gifts. You may accept:

- gifts of \$20 or less (other than cash) (up to \$50 per year from the same source);
- gifts from relatives and friends (if based on a personal relationship);
- gifts of meals, lodging, and travel based on your outside business or employment relationships or those of your spouse;
- awards and honorary degrees (in specified circumstances);
- invitations to widely-attended events (if from the host (generally) and if your Government supervisor approves your attendance as in the Department's interest);
- business meals overseas, if a foreign citizen or representative of a foreign entity is present (up to the *per diem* of the city); and
- gifts from a foreign government of \$335 or less—gifts of over \$335 may be accepted, but become property of the United States Government.

NON-GOVERNMENT ACTIVITIES

Basic Principle: Avoid Divided Loyalties

As a special Government employee, you are likely to have employment other than your U.S. Government position. It is important that you consider whether such non-Federal employment, or other personal activities, conflict with your Government duties.

General Rule regarding Non-Federal Employment. You may not engage in non-Federal employment that conflicts with your Government duties. An activity may create a conflict if it is barred by law (such as employment with a foreign government) or if it requires your disqualification from assignments critical to the performance of your Federal duties.

Working for a Foreign Government. The U.S. Constitution bars you from working for, or accepting any compensation, including salary or travel expenses, from, a foreign government, unless authorized by statute.

General Rule regarding Political Activities. The rules on political activities are intended to allow you to actively participate in the political process, but also to ensure that Government activities and political activities are not intermingled. You may not engage in political activities during Government duty hours or while on Government premises. You are also barred from using Government resources (including your Government affiliation) for a partisan political purpose or to aid a political campaign or organization. You may engage in partisan political activities during non-duty hours, even on days in which you are providing services to the Government.

Service as an Expert Witness. Unless you receive prior authorization, you may not serve as an expert witness in any case involving the United States Government if you participated as a Government employee in the matter that is the subject of the proceeding. Additionally, if you served for more than 60 days during the previous year, or on a commission established by statute, you may not serve as either a fact or an expert witness in a proceeding before a Federal court or Federal agency if the Department of Commerce is a party or has a direct and substantial interest in the matter, unless you receive prior authorization.

LOBBYING THE FEDERAL GOVERNMENT

Basic Principle: Avoid Divided Loyalties

As a Federal employee, you are subject to some restrictions on your dealings with Federal agencies and courts to avoid any appearance of undue influence.

General Rules on Lobbying the Government. Because you are considered a Federal official, you are subject to some limitations regarding contacts with other Federal officials to influence Government actions on behalf of others.

You may not serve as an agent or attorney (or generally represent) anyone before a Federal agency or court regarding a matter that involves specific parties (such as a contract, grant, license, or litigation in which specific individuals or firms are named) if:

- you participated in that matter as a Federal official, or
- if you served for 61-130 days with the Government during the past 365-day period, the matter is pending before the Department of Commerce.

Receipt of Compensation based on the Lobbying Activities of Others. In addition to being restricted from representing others before the Federal Government, you are also barred from accepting compensation for the representational activities of others (such as an attorney in a law firm in which you are a partner) before the United States Government regarding a matter involving specific parties in which you participated personally and substantially or, if you served for 61-130 days, on a matter pending before the Department during your period of service.

Restrictions on Serving as a Foreign Government Agent or Lobbyist. You may not perform services on behalf of a foreign government that will require registration under the Foreign Agents Registration Act or the Lobbying Disclosure Act.

MISUSE OF GOVERNMENT RESOURCES

Basic Principle: Do Not Steal

It is important to limit the use of taxpayer-funded resources to activities that benefit the public rather than the individual employee.

General Rules. You may only use Government equipment, supplies, services, and personnel for authorized Government activities. Furthermore, your Government title may not be used in connection with private, non-Government activities. You must avoid circumstances that may imply that the Government endorses a particular private activity with which you are associated. Therefore, it would be improper for you to refer to your Government title or position when conducting personal business. You may not use nonpublic trade data, economic analyses, private personnel information, protected census data, national security information, or other nonpublic information for your private activities or for the benefit of someone else. 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 in connection with personal activities as part of general biographical data if it is given no more prominence than other significant biographical details. Regarding frequent flier benefits, you may use frequent flier miles and other benefits obtained from Government travel for personal purposes, including personal travel or upgrades on Government travel.

RESTRICTIONS AFTER LEAVING A FEDERAL POSITION

Basic Principle: Avoid Misuse of a Prior Relationship

After ending your Federal service some restrictions will apply to you, particularly with regard to lobbying the Government or using nonpublic information.

General Rules. After you leave Government service you may not contact Federal agencies or courts on behalf of others regarding:

- any matter that concerns named parties (such as a contract, grant, licence, or litigation) if you worked on the matter during your Federal service, or
- for two years, any matter that concerns named parties on which a subordinate of yours worked (or which was under your responsibility) within the past year.

If you are a senior employee (meaning you had a base pay equivalent to \$148,953 per year or more in 2008), you may not for one year after leaving Federal service:

- contact anyone in your former agency on behalf of someone else and
- advise a foreign government or foreign political party or represent a foreign government or foreign political party before any branch of the U.S. Government.

You also may not use or disclose nonpublic information you obtained through your service with the Government.

Exceptions. There are exceptions to some post-employment rules, including for contacts made on behalf of a state or local government, educational or medical institution, or international organization; as well as for testimony under oath.

Seeking Non-Federal Employment. Please note that during a period you are in employment discussions with a non-Federal Government entity you may not participate as a Federal official on any matter in which the prospective employer has a financial interest. This disqualification begins when you first contact a prospective employer or are contacted by one and continues until you or the prospective employer notifies the other of a lack of interest in pursuing the matter.

Contact the Ethics Law and Programs Division (202-482-5384) for advice or to obtain a handout on these rules.

FINANCIAL DISCLOSURE

Basic Principle: Tell the Whole Truth

Basic Guidelines. As a special Government employee you will be 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 provide 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; and
- assets and sources of income of your spouse.

**For more information about any of these rules contact the
Ethics Law and Programs Division of the Office of the General Counsel,
United States Department of Commerce, at 202-482-5384.**

EXAMPLES

NO PROBLEM

1. A member of an advisory committee that advises on regulations affecting all U.S. telephone companies has \$30,000 of telephone company stock, which is included in a conflict of interest waiver.
2. A 90-day temporary employee who has \$60,000 in a broadly-diversified mutual fund with some energy holdings reviews a proposed oil spill regulation.
3. A consultant works on a grant application from a company for which he worked three years ago.
4. A special Government employee makes telephone calls on behalf of a candidate in a partisan election during non-duty hours from her home on a personal cell phone.
5. An advisory committee member (who serves for less than 60 days) contacts a Commerce official for a neighbor on a grant unrelated to the committee's work.
6. An advisory committee member uses an agency-produced publicly-available marketing study to target potential customers for his private business.

PROBLEM

1. A member of an advisory committee that advises on regulations affecting all U.S. telephone companies has \$30,000 of telephone company stock and no conflict of interest waiver.
2. A 90-day temporary employee who has \$60,000 in a sector-specific mutual fund that focuses on energy holdings reviews a proposed oil spill regulation.
3. A consultant works on a grant application from a company for which he worked three months ago.
4. A special Government employee makes telephone calls on behalf of a candidate in a partisan election during non-duty hours from her Government office on a personal cell phone.
5. An advisory committee member (who serves for more than 60 days) contacts a Commerce official for a neighbor on a grant unrelated to the committee's work.
6. An advisory committee member uses an agency-produced non-public marketing study to target potential customers for his private business.

CITATIONS TO APPLICABLE LAW

Financial Conflicts of Interest

18 United States Code (U.S.C.) § 208
5 Code of Federal Regulations (C.F.R.) §§ 2635.401-2635.403, 2635.502,
2640.201-2640.202

Appearances of Bias based on Outside Relationships

5 C.F.R. §§ 2635.501-2635.503

Bribes and Gifts

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

Non-Government Activities and Lobbying the Federal Government

5 U.S.C. §§ 7321-7326; 18 U.S.C. §§ 203, 205, and 208
5 C.F.R. §§ 734.201-734.702, 2635.801-2635.809

Misuse of Government Position and Resources

18 U.S.C. § 641
5 C.F.R. §§ 2635.701-2635.705

Post-Federal Employment Restrictions

18 U.S.C. § 207
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
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