



United States
Office of Government Ethics
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MEMORANDUM

TO: Designated Agency Ethics Officials and Inspectors General

FROM: Marilyn L. Glynn
Acting Director

SUBJECT: 2003 Conflict of Interest Prosecution Survey

This Office has completed its annual survey of prosecutions involving the conflict of interest criminal statutes (18 U.S.C. §§ 202-209) for the period January 1, 2003, through December 31, 2003. Information on 10 new prosecutions by U.S. Attorneys' offices and the Public Integrity Section of the Department of Justice's Criminal Division was provided to us with the assistance of the Executive Office for United States Attorneys in the Department of Justice. Summaries of the prosecutions reported to this Office for past years can be found on our web site at www.usoge.gov under "[Laws and Regulations.](#)"

2003 Conflict of Interest Prosecution Survey

[CASE 1] [The Government employee] was an Acting Supervisor District Adjudications Officer and the District Adjudications Officer for the U.S. Immigration and Naturalization Service (INS) in Sacramento, California. [Businessman A] was an immigration consultant with a private company, Gateway Express. [He] assisted immigrants with the process of becoming citizens and did substantial business with the Sacramento INS office.

[Businessman A] gave to [the Government employee] the following items: a dozen cases of wine and champagne and a cash gift at his wedding; a complimentary casino room at South Lake Tahoe; and monthly parking in Sacramento at a below-market rate. In exchange for these gifts, [the Government employee] provided expedited service and special assistance to [Businessman A] on immigration matters.

[The Government employee] pleaded guilty to 3 misdemeanor counts of violating 18 U.S.C. § 209(a), receiving compensation from a private party for services rendered to the U.S. He was sentenced to 36 months' probation, a \$75 special assessment, and home detention for 90 consecutive days. An appeal is pending. Because [he] waived appeal in his plea agreement, the Government will be moving to dismiss the appeal.

The Eastern District of California handled the prosecution.

[CASE 2] [The Government employee] was a rating assistant technician with the San Diego office of the Department of Veterans Affairs (VA). His duties included gathering evidence and information regarding each claimant's case and submitting the claim to the rating board for a determination of benefits. Between April 2000 and May 2003, [he] assisted certain veterans in expediting their disability benefits claims through the VA and allowed veterans to submit inflated claims to the VA. In exchange for this assistance, he received approximately \$4,500 in cash payments from these claimants.

[The Government employee] pleaded guilty to 1 felony count of a violation of 18 U.S.C. § 209(a), unlawfully accepting supplementation of his Government salary. He was sentenced to 4 years' supervised probation, a \$10,000 fine, a \$100 special assessment, and 120 hours of community service as part of special conditions of probation. (Probation will terminate early if he pays the total fine and completes the community service before 4 years has elapsed.)

The Southern District of California handled the prosecution.

[CASE 3] [The Government employee] was an active duty Coast Guard captain until July 31, 2000, when he retired. As a Coast Guard officer, he worked extensively in the field of Loran technology. Loran is a low frequency system that is used for aircraft navigation. Loran is distinct from the Global Positioning System (GPS).

Since 1998, the U.S. Department of Transportation (DOT) has funded research intended to determine whether the Loran and GPS systems could be integrated using "Loran-C" technology. DOT assigned research funds through the Federal Aviation Administration (FAA) to, among others, the Coast Guard. The FAA hired a private consulting company, [Company A], to oversee the Loran-C project.

In or about March 2000, while still on active duty, [the Coast Guard officer] contacted [Company A] concerning future employment/consulting opportunities after his retirement from the Coast Guard. Around May 2000, while still in contact with [Company A] about employment opportunities, [he] drafted a statement of work relating to the Loran-C project.

After his retirement from the Coast Guard, he formed [an LLC]. He then entered into a consulting arrangement with [Company B], which had been hired as a subcontractor to work on the Loran-C project. He agreed to provide consulting services to [Company B] in connection with the Loran-C project.

As part of his work for [Company B], he communicated regularly with FAA personnel and Coast Guard personnel concerning the Loran-C project. The conversations included an e-mail to Government employees in which he urged the Government employees to purchase equipment that he needed for the project. Between the time of [his] retirement from the Coast Guard and early 2003, [Company B] paid [the LLC] at least \$392,000 for its services in connection with the Loran-C project.

The Government maintained that [the Coast Guard officer] violated 18 U.S.C. § 208(a) by negotiating future employment with [Company A] while drafting the statement of work on a project that was overseen by [Company A]. The Government also maintained that he violated 18 U.S.C. § 207(a)(1) by making a communication to Government personnel with the intent to influence them concerning a matter over which he had exercised personal and substantial responsibility while a Coast Guard officer.

The Department of Justice entered into a settlement agreement with [the Coast Guard officer]. He paid a civil penalty of \$25,000, without admitting liability.

The District of Connecticut handled the prosecution.

[CASE 4] [The Government employee] was employed by the Department of the Navy as a Construction Representative in the Office of the Resident Officer in Charge of Construction. In June 1998 [he] had become the Construction Representative on 2 [Company C] contracts with the Navy. [He] was responsible for conducting inspections to ensure that [Company C] was in compliance with the contract specifications.

[The Government employee] also owned a business, [Z Contractors]. While he was an inspector on the [Company C] contracts, [he] approached [Company C's] project manager and asked if there was a way he could make extra money. [Company C's] project manager then hired [Z Contractors] as a subcontractor on one of the projects [the Government employee] was

overseeing for the Navy. [The Government employee] did not tell his supervisors that his company had been hired as a subcontractor on a job he was inspecting.

Between June 1998 and January 1999 [Z Contractors] received approximately \$26,000 in payments from Company C] under the subcontract. [The Government employee] submitted invoices to the [Company C] project manager for work [Z Contractors] allegedly did for [Company C]. He gave a portion of the payments he received from [Company C] to [its] project manager. [The Government employee] admitted that he knew his being paid as a subcontractor was a clear conflict of interest and that the kickbacks to the project manager were a reward for being awarded the subcontract.

[The Government employee] pleaded guilty to 1 count of violating 18 U.S.C. § 208, which bars an employee from taking official action in matters affecting certain personal or organizational financial interests, and 1 count of violating 41 U.S.C. § 53 (the Anti-Kickback Act of 1986). He was sentenced to 3 years' probation on each count, 6 months' home detention with electronic monitoring, 100 hours of community service, a \$10,000 fine, and a \$200 special assessment.

The District of Hawaii handled the prosecution.

[CASE 5] [The Government employee] was employed in the administrative office of the U.S. Department of the Interior's Geological Survey. Her official responsibilities included purchasing office supplies and services using a Government-issued credit card. Between October 2000 and March 2001, [she] received approximately \$500 in retail gift cards from a vendor because she ordered supplies for the Government from his company.

[She] pleaded guilty to 1 misdemeanor count of violating 18 U.S.C. § 209, unlawfully accepting supplementation of her Government salary. She was sentenced to 2 years of supervised probation, 100 hours of community service, and a \$25 special assessment.

The Public Integrity Section of the Criminal Division of the Department of Justice handled the prosecution.

[CASE 6] [The Government employee] was employed as a purchasing agent in the administrative office of the U.S. Department of Agriculture. Her official responsibilities included purchasing office supplies and services using a Government-issued credit card. In or about July 2000, [she] received a \$500 retail gift card from a vendor because she ordered supplies for the Government from his company.

[She] pleaded guilty to 1 misdemeanor count of violating 18 U.S.C. § 209, unlawfully accepting supplementation of her Government salary. She was sentenced to 1 year of supervised probation, a \$500 fine, 10 hours of community service, and a \$25 special assessment.

The Public Integrity Section of the Criminal Division of the Department of Justice handled the prosecution.

[CASE 7] [The Government employee] worked as an agricultural economist for the U.S. Department of Agriculture (USDA). His official duties included inviting groups of Chinese nationals with expertise in agriculture to the U.S. to meet with officials at the USDA. Beginning in late 1999, [he] conspired with visa brokers based in California and China to locate Chinese nationals who were willing to pay to come to the U.S. and who were not eligible to receive visas. The Chinese nationals would pay approximately \$10,000 each to the visa brokers, who then provided their names and bogus biographical information to [the Government employee]. [He] wrote letters on USDA letterhead to be presented to U.S. consulates in China, stating that the Chinese nationals were agricultural specialists invited to the United States for official meetings. [The Government employee] knew when he drafted the letters that the Chinese nationals in question were not agricultural specialists and that the meetings would not take place.

Also as part of the scheme, [the Government employee] drafted and signed letters from his wife on behalf of her company, [Company D]. These letters purported to confirm invitations to the Chinese nationals. [The Government employee] showed several of these letters to [his wife]. [She] deposited in [Company D] accounts the fees paid to [her husband] for his role in the conspiracy. As a result of this scheme, 99 Chinese nationals received non-immigrant visas to enter the United States. [The Government employee] and [his wife] received approximately \$82,000 for their role in this scheme.

[The Government employee's wife] pleaded guilty to 1 count of aiding and abetting an unlawful conflict of interest in violation of 18 U.S.C. §§ 208 and 2. She was sentenced to 2 years' probation, 100 hours of community service, and a \$25 special assessment. Although [the Government employee] was not charged with a violation of 18 U.S.C. § 208, he was charged with 1 count of conspiring to commit visa fraud in violation of 18 U.S.C. §§ 371 and 1546. The outcome of his case is pending.

The Public Integrity Section of the Criminal Division of the Department of Justice handled the prosecution.

[CASE 8] As Chief of Staff for the President's Critical Infrastructure Protection Board (PCIPB) in the Office of Homeland Security, [the Government employee] was responsible for the establishment and management of the Board, including matters of personnel, budget, and administration. Beginning in December 2001 and continuing through July 2002, [he] recommended and participated in the proposed procurement of a support contract for the Board in the amount of approximately \$600,000. The PCIPB and the Office of Administration in the Executive Office of the President initially designed the procurement as a sole source contract to be awarded to a particular company (Company). Later the proposed procurement was revised and handled as a competitively bid contract. In May 2002, [the Government employee] informed the Company of the Government's decision to procure the contract through a competitive bid.

Not later than July 9, 2002, [the Government employee] began negotiating for employment with the Company. On July 16, he asked the Acting General Counsel for the

Office of Administration for assistance in moving forward for approving the implementation of the procurement for the PCIPB support contract. On July 18 he visited the offices of the Company and interviewed with them for potential employment. On July 19 he contacted the Office of the White House Counsel in order to recuse himself from all matters related to the Company. On July 23 he received an offer of employment from the Company. On July 24 he was provided with a recusal memorandum which he executed immediately. He accepted the Company's offer of employment on August 1, 2002.

In September 2002, following a competitive bid and evaluation process, the PCIPB support contract was awarded to the Company. Upon learning of conflict of interest concerns by the White House Counsel's Office, [the Government employee] informed the White House Counsel's Office that the Company had withdrawn its job offer and he would not begin employment with the Company. The White House Counsel's Office referred the matter to the Department of Justice.

The Government maintained that [the Government employee's] conduct was a violation of 18 U.S.C. § 208, participating personally and substantially in a particular matter in which, to the official's knowledge, an organization with which he is negotiating for prospective employment has a financial interest.

DOJ entered into a settlement agreement with [the Government employee]. He paid a civil penalty of \$5,000.

The Public Integrity Section of the Criminal Division of the Department of Justice handled the prosecution.

[CASE 9] The Office of the Chief Technology Officer (OCTO), District of Columbia, is responsible for providing the technological support for all agencies within the District of Columbia. To fulfill this responsibility, the OCTO solicits contracts from private vendors who can provide these services. Because many of the OCTO's employees do not have advanced technological training, OCTO contracts with outside consulting companies to obtain individuals with the required technological knowledge to assist with the solicitations and subsequent contracts. These individuals, known as program or project managers, serve as consultants for OCTO in its relationships with the private vendors who bid for contracts with OCTO.

Beginning in January 1999, [the District of Columbia employee] was one of these program managers for OCTO. At that time, he was employed by [Company E], which had contracted to provide consulting services for OCTO. [The District of Columbia employee] later ended his relationship with [Company E] and recommended to OCTO that it contract with [Company F] to provide consulting services for the office. As part of the contract between [Company F] and OCTO, [the District of Columbia employee] continued working as a program manager for OCTO. [He] received a flat salary for his work. OCTO paid [Company F] pursuant to its contract, and [Company F] then paid [the District of Columbia employee] his salary. There was no additional agreement for [him] to receive a contingency fee.

In the course of his duties as a program manager, [the District of Columbia employee] dealt directly with vendors who were soliciting business from OCTO. He provided vendor selection criteria and recommended to OCTO the vendors who should be awarded Government contracts. He also provided technical assistance and managed many of the projects between the District of Columbia agency receiving the technology and the private vendor providing the technology.

During the fall of 2000 [the District of Columbia employee] asked the owner of [Company F] for an additional payment of approximately \$36,000. [The District of Columbia employee] asserted that he was entitled to 15% of the income that [Company F] received under its contract with OCTO as additional compensation for his work in providing vendors to OCTO. [The owner of Company F] refused to pay. The incident was then reported to the authorities.

The U.S. Attorney's Office for the District of Columbia considered [the District of Columbia employee] to be a Government employee for purposes of 18 U.S.C. § 208(a). [He] pleaded guilty to 1 count of a violation of 18 U.S.C. § 208(a), committing unlawful acts affecting a personal financial interest. He was sentenced to 1 year's probation and ordered to pay \$1,000 in restitution and a \$25 special assessment.

The U.S. Attorney's Office for the District of Columbia handled the prosecution.

[CASE 10] In May 2003 [Defendant A] appeared for his citizenship interview before [the Government employee], District Adjudication Officer in Santa Ana, CA. [Defendant A] gave [the Government employee] \$200 in cash in an envelope during his interview for citizenship. During a post-arrest interview, [Defendant A] admitted to giving \$200 to [the Government employee] with the intention that she would look favorably upon his interview, particularly the English proficiency portion.

[Defendant A] pleaded guilty to a violation of 18 U.S.C. § 209(a). He was sentenced to 1 year's probation.

The Central District of California handled the prosecution.