



SUMMARY OF ETHICS RULES

ETHICS LAW AND PROGRAMS
DIVISION

OFFICE OF THE
ASSISTANT GENERAL COUNSEL
FOR ADMINISTRATION

UNITED STATES
DEPARTMENT OF COMMERCE

202-482-5384
ethicsdivision@doc.gov
www.commerce.gov/ethics

2012



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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, the *Standards of Ethical Conduct for Employees of the Executive Branch*, and other ethics laws. 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:

- *Cameron F. Kerry – 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 email hotline@oig.doc.gov.

Prepared by the Ethics Law and Programs Division, Office of the Assistant General Counsel for Administration, United States Department of Commerce – January 3, 2012

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.*

MISUSE OF GOVERNMENT RESOURCES

BASIC PRINCIPLE: DO NOT STEAL

The most common violation of ethics concerns the misuse of Government resources. 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 can only use Government resources, including Government equipment, supplies, services, and duty time, for authorized purposes. You cannot use your official title in connection with your personal activities. Furthermore, nonpublic information you learn through your Federal job cannot 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 cannot 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, Frequent Flier Benefits, and Access to the Internet and Email. You can use your Government title for personal activities as part of general biographical data and when writing for a scientific or technical publication (if you include a disclaimer). You can use frequent flier miles and other benefits obtained from Government travel for personal purposes, including personal travel or upgrades on official travel. Access to the internet and email can be used for some personal purposes, but there are restrictions—see the sidebar for an explanation of the rules regarding such uses.

Use of the Internet and Email.

You can use office access to email 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 can use office printers for personal purposes if it does not consume excessive resources.

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, acceptance of gifts or payments may create an appearance of undue influence on Government workers.

Rules concerning Bribes and Salary Supplementation. You cannot receive anything of value from a non-Government source for taking action or failing to take action in your Government position. You also cannot 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 cannot accept a personal gift from anyone who has or is seeking business with or action from the Department, is regulated by the Department, or has interests that can be affected by your Federal duties or a gift that was offered to you because of your agency position. Gifts to your spouse or minor children are usually considered gifts to you.

Exceptions to the General Rule concerning Personal Gifts. You can accept:

- gifts of \$20 or less (other than cash) (up to \$50 per year from the same donor);*
- gifts from a relative or friend (if based on your personal relationship);
- invitations to “widely-attended gatherings” (if your supervisor approves);* †
- business meals overseas (if a foreign person is present, in most cases);*
- discounts generally available to the public;
- awards and honorary degrees (in some cases);*
- meals, lodging and travel if based on an outside business relationship* or a spouse’s employment;
- items of little intrinsic value (greeting cards, plaques, trophies); and
- gifts from a foreign government of \$350 or less—a gift of over \$350 can be accepted on behalf of the United States Government).

* *see the sidebar* † *see box on next page*

Gifts from Lobbyists.

If you are a political appointee, you cannot accept gifts or invitations from a registered lobbyist or lobbying organization *unless*: (1) the gift or invitation is based on a personal relationship or (2) the gift or invitation is from a lobbying organization that is a 501(c)(3) organization or a media company (and the invitation was not extended by a person who is a lobbyist).

Invitations to “widely-attended gatherings” (WAGs). A WAG is an event with a large and diverse number of people from outside the U.S. Government. You can attend a WAG if it is not primarily entertainment and your supervisor approves your attendance as being in your agency’s interest (but if the invitation is not from the host of the event, you can accept only if the value is \$350 or less and more than 100 persons will be attending).

General Rule concerning Gifts between Employees. You cannot offer a gift to a supervisor or accept a gift from a subordinate *unless* one of the exceptions below applies.

Exceptions to the General Rule concerning Gifts between Employees. You can offer to a supervisor or accept from a subordinate a gift if:

- the gift is for a special, infrequent major event (such as the birth or adoption of a child, recovery from a serious illness, retirement, or a wedding);
- the gift is worth \$10 or less, given occasionally;
- it is food shared in the office;
- it is personal hospitality at one’s home; or
- it is a gift to a host or hostess (such as wine or flowers).

General Rule concerning Gifts to the Government. You can, on behalf of the Department and with the approval of an authorized agency official, accept gifts to support agency activities. However, in most cases you cannot accept a gift from: (1) an agency contractor or grantee, (2) someone who is in an industry regulated by your agency, or (3) someone who has an interest in a controversial matter pending before your agency. Furthermore, gifts cannot be accepted if the circumstances would create an appearance of loss of impartiality by you or your agency.

You should contact the Ethics Laws and Programs Division for advice before asking for support for agency events or if you have any question regarding a gift to support an agency program.

Gifts for Official Travel. Gifts to an agency are most often in connection with official travel. You cannot ask anyone to pay for your travel, but offers may be accepted if they comply with the above standards. However, you cannot accept: (1) first-class airline tickets or (2) an honorarium or speaking fee in connection with Government travel.

Forms Relating to Gifts. Forms for reporting gifts and for obtaining a supervisor’s approval to accept an invitation are available at the Ethics website: www.commerce.gov/ethics.

APPEARANCES OF BIAS (CONFLICTS BASED ON PERSONAL RELATIONSHIPS)

BASIC PRINCIPLE: NO SPECIAL FAVORS

It is important to avoid not only financial conflicts of interest but any appearance of loss of impartiality. An appearance of bias is most likely when a matter concerns a person or organization with which you have a close relationship.

General Rule. You cannot participate in matters in which persons with whom you have “covered relationships” are before the Government as a party or to represent a party, if your participation would cause a reasonable person to question your 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);
- recent former non-Federal employers and clients, (which includes anyone who was an employer or client within the past year and, if you are a political appointee, anyone (other than a state or local government) that was an employer or client within the two years prior to your appointment (in which case the restriction will last for two years after your appointment); and
- organizations (other than political parties) in which you are an active participant.

Exception to the General Rule. If the Government’s need for your participation in a matter outweighs appearance concerns a waiver of the disqualification requirement may be available. Contact the Ethics Law and Programs Division at 202-482-5384 or ethicsdivision@doc.gov for more guidance on this exception.

Perception Concerns.

Note that if you are assigned to a task that does not involve someone with whom you have a “covered relationship” but which still may raise a question regarding favoritism, such as a matter concerning a personal friend, you should discuss the concern with your supervisor, who can make the decision on whether to reassign the matter to someone else based on management concerns, even though there is no legal problem.

NON-FEDERAL EMPLOYMENT AND OUTSIDE ACTIVITIES

BASIC PRINCIPLE: AVOID DIVIDED LOYALTIES

General Rule on Outside Activities. Although you can have an outside job, hold a position in a non-Federal organization, and otherwise engage in personal activities during non-duty hours, such work, position, and activities must be compatible with your Government duties. Because you cannot work as a Federal employee on anything that will affect the interests of an outside employer or organization in which you serve as an officer or board member, you cannot hold such employment or position if that disqualification will prevent you from performing important agency duties. A similar problem would apply if you are active in an organization and your agency duties require you to work on matters in which that organization is a party. In addition, outside activities may be incompatible with your Government position if they will create an appearance of misuse of your Federal position, which is most likely if your personal activities are closely related to your Government duties or the activities of your agency. You should seek specific advice about any outside employment, positions, or activities from the Ethics Law and Programs Division at 202-482-5384.

Working for a Foreign Government. Employment with, providing services to, or accepting compensation from a foreign government is prohibited by the Emoluments Clause of the U.S. Constitution, unless expressly permitted by statute. By statute, National Institute of Standards and Technology employees are allowed to accept certain fellowships provided by foreign governments.

Outside Practice of Law. There are special rules for engaging in the practice of law. Most *pro bono* activities are allowed as long as the client does not have business before your agency and the activity does not include representation before a Federal agency or Federal court. Other situations are determined on a case-by-case basis. If you are an attorney, please consult applicable bar rules as well as Federal ethics rules.

Teaching, Speaking, and Writing. You cannot receive payments (other than for travel) for writing, speaking, or teaching about programs or operations of the Department (unless as part of a course that is in the regular curriculum of an accredited school). A writing about agency programs or operations that is related to your duties must be given to your supervisor for prior review. If you are a political appointee in the SES, you must receive prior approval before teaching for compensation.

CONTACTING THE FEDERAL GOVERNMENT

BASIC PRINCIPLE: AVOID DIVIDED LOYALTIES

General Rule on Contacting the Government and Receiving Payments for Communications by Others. You cannot act as an agent or attorney or, if paid, otherwise contact a Federal agency or Federal court on behalf of someone other than yourself, unless an exception applies (see below). This restriction applies to contacts made on behalf of relatives and friends, as well as clients or an employer. The contact is prohibited if the purpose is to influence Government action on behalf of someone other than yourself. In addition, you cannot receive any payment that is based on the representational activities of someone else before a Federal agency or Federal court during a period in which you served as a Federal employee (this situation most often arises if you have an outside position as a partner of a firm or are entering the Government from, or leaving the Government to join, a partnership with a Federal practice and some of your compensation will be based on fees the partnership earned from its Federal practice while you were with the Government).

Exceptions to the Rule on Contacting the Government. You can represent:

- (1) other Federal employees in some personnel disputes if you do not receive compensation;
- (2) your parents, spouse, or children, or an estate or trust, but only if you receive approval beforehand, which can be obtained by contacting an ethics official; and
- (3) if you are not paid, a professional, recreational, or similar group if the majority of the organization's members are Federal employees or their spouses or dependents, and if the matter does not involve claims against the Government, proceedings in which the organization is a party, or Government financial benefits to the organization.

Contact the Ethics Law and Programs Division at 202-482-5834 for advice or to obtain approval to represent a family member.

Serving on Boards of Federal Child Centers and Fitness and Health Organizations. Although you can serve on boards for organizations composed primarily of Federal employees and can discuss most organization issues with Department officials, you must be careful to not discuss issues concerning financial payments from the Department to the organization with Department officials. All such discussions must be conducted by someone who is not a Federal employee.

POLITICAL ACTIVITIES

BASIC PRINCIPLE: KEEP GOVERNMENT AND POLITICAL ACTIVITIES SEPARATE

General Restrictions concerning Political Activities. Activities as a Federal employee must be kept separate from personal activities concerning a partisan political campaign, meaning an election in which candidates are identified by political party.

You cannot:

- engage in partisan political activities while on Government premises;
- engage in partisan political activities while on official duty;
- ask for or accept political contributions (even during non-duty hours);*
- invite others to a political fund-raiser, or host a political fund-raiser;
- use the authority of your Government position to support or oppose a candidate in a partisan political campaign or a political party;
- use Government equipment or other resources for partisan political activities, including your agency title, or access to email or the internet;
- run as a candidate in a partisan election (except as an independent candidate in local elections in the Washington, D.C. suburbs and other designated areas); or
- ask for or accept volunteer services from a subordinate.

** unless the fund-raising is by asking another member of your union (who is not your subordinate) for contributions to a multi-candidate fund of the union*

Permitted Activities. Except as indicated in the above restrictions, you may actively engage in political campaign activities during non-duty hours (unless you are a career member of the SES or a NOAA Corps officer—see the sidebar).

Permitted activities include:

- giving funds to a candidate or party;
- attending a political fund-raiser, rally, or other campaign event;
- assisting in the management of a campaign;
- serving as an officer in a political group;
- soliciting votes (but not funds) for a candidate;
- making telephone calls or stuffing envelopes for a campaign; and
- speaking at a political event.

Special Rules for Career SES Members and NOAA Corps Officers.

If you are a career member of the Senior Executive Service, you cannot actively assist in a partisan campaign or be an officer in a political organization, even during non-duty hours.

However, you can vote and give money to a party or campaign. You can also actively participate in nonpartisan elections and referenda. Similar restrictions apply to NOAA Corps officers.

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 cannot 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.

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

- a holding in a publicly-traded diversified mutual fund;
- a holding of less than \$50,000 in a publicly-traded “sector-specific mutual fund” (a fund that focuses on a specific industry sector or foreign country or state);
- 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 (which allows participation in broad policy matters affecting the company as a member of a group or industry sector (if total investments in the group/industry sector are \$50,000 or less), but not matters affecting the company individually); or
- covered by a conflict of interest waiver (which are generally available only for employees serving overseas or in unusual circumstances—contact the Ethics Law and Programs Division at 202-428-5384 for information on waivers).

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.

SEEKING EMPLOYMENT AND POST-EMPLOYMENT ACTIVITIES

BASIC PRINCIPLE: AVOID DIVIDED LOYALTIES

Seeking Employment. Once you begin a job search, you must disqualify yourself from working on any matter (including a policy matter) affecting a prospective employer until either of you ends employment discussions (or until two months have passed with no response after submitting a résumé). If you are participating in a procurement over \$100,000, you must give written notice to your supervisor and the Ethics Law and Programs Division of employment contacts with or from a competing contractor.

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

- contact for someone else a Federal agency or court concerning a specific-party matter (a matter with identified and named parties, such as a contract or grant) on which you worked;
- for two years, contact for someone else a Federal agency or court on a specific-party matter on which a subordinate worked or was under your responsibility during your last year of service;
- for one year (if you are a senior career employee (have a base pay of \$155,440 or more)) or two years (if you are a senior political appointee), contact your agency (or the Department, if you are a Presidential appointee), for someone else;
- for one year, if you are a senior employee, advise (or represent before the U.S. Government) a foreign government or foreign political party;
- disclose or use protected nonpublic Federal information, such as treaty negotiation information, personnel information, trade secrets, or national security information;
- for one year, accept compensation from the contractor of a \$10,000,000 or more procurement, if you served as a procurement official or program manager; or
- if you are a political appointee, for the remainder of the President's Administration, lobby any political appointee in the Executive Branch.

Exceptions and Special Post-Employment

Rules. Exceptions to these rules apply concerning providing testimony or representing state and local governments, international organizations, and educational and medical institutions, in some cases. Additional restrictions apply to attorneys, former employees who received buyouts, and political appointees who work for a lobbying firm after leaving the Government.

Additional Information Available. Contact the Ethics Law and Programs Division at 202-482-5384 for advice on these rules or get a handout at www.commerce.gov/ethics.

FINANCIAL DISCLOSURE

BASIC PRINCIPLE: TELL THE WHOLE TRUTH

Basic Guidelines. Presidential Appointees, members of the Senior Executive Service, employees in non-career policy-making positions, procurement officials, and other employees whose performance of Federal duties could have a significant impact on the interests of members of the public are required to file financial disclosure reports. These are collected upon entry into a position for which such reports are required and annually thereafter (in February or May, depending on the employee's position).

If you are designated as required to file such a 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 full name of any mutual fund (not just the generic name of the company managing the fund);
- specific holdings in any IRA, 401(k) account, trust, or investment account (other than broadly-diversified mutual funds, if you file a confidential report (OGE Form 450));
- 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 (and assets of your dependent children).

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 more information about any of these rules and guidance on their application to a specific situation, contact the Ethics Law and Programs Division at 202-482-5384 or ethicsdivision@doc.gov.

CITATIONS TO APPLICABLE LAW

Misuse of Government Position and Resources

18 United States Code (U.S.C.) § 641
5 Code of Federal Regulations (C.F.R.) §§ 2635.701–2635.705
Department of Commerce Internet Use Policy

Appearances of Bias based on Outside Relationships

5 C.F.R. §§ 2635.501-2635.503
Ethics Pledge, Executive Order No. 13490, 74 Fed. Reg. 4673 (1/21/2009)

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
Ethics Pledge, Executive Order No. 13490, 74 Fed. Reg. 4673 (1/21/2009)

Non-Federal Employment and Outside Activities

5 U.S.C. §§ 7321–7326; 18 U.S.C. § 208
5 C.F.R. §§ 734.201–734.702, 2635.801–2635.809
3 Foreign Affairs Manual (FAM) Part 4120

Contacting the Government

18 U.S.C. §§ 203, 205

Political Activities

5 U.S.C. §§ 7321–7326
5 C.F.R. §§ 734.201–734.702, 734.201–734.702
NOAA Corps Regulations, Chapter 9, Part 2

Financial Conflicts of Interest

18 U.S.C. § 208; 35 U.S.C. § 4
5 C.F.R. §§ 2635.401–2635.403, 2635.502, 2640.201–2640.202
3 FAM Part 4120

Seeking Employment and Post-Employment Activities

18 U.S.C. §§ 207 and 208; 41 U.S.C. § 423
5 C.F.R. Parts 2635, 2637, and 2641; 15 C.F.R. §§ 15.11–15.18
Ethics Pledge, Executive Order No. 13490, 74 Fed. Reg. 4673 (1/21/2009)