



**SUMMARY OF
ETHICS
RULES
FOR PERSONS
CONSIDERING
EMPLOYMENT
WITH THE
UNITED STATES
DEPARTMENT
OF COMMERCE**

**ETHICS LAW AND PROGRAMS
DIVISION**

**OFFICE OF THE
ASSISTANT GENERAL COUNSEL
FOR ADMINISTRATION**

**UNITED STATES
DEPARTMENT OF COMMERCE**

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PUBLIC SERVICE IS A PUBLIC TRUST

Employment with the Federal Government can be rewarding, providing an opportunity to formulate and implement policies and programs that will have a significant impact on Americans in all walks of life. This is particularly true regarding service in the U.S. Department of Commerce, which has a broad range of responsibilities and positions for persons with a large variety of backgrounds. However, with this responsibility comes obligations. Public service is a public trust and Federal employees are subject to restrictions beyond those that apply to most persons in the private sector and that differ significantly from those serving in other public sector positions, such as with Congress or a state or local government. This handout is a summary of ethics rules that will apply to you if you accept employment with the Federal Government.

If you have questions about any of these rules, or their application to a specific situation, please contact an attorney in the Department of Commerce's Ethics Law and Programs Division; an attorney can be reached at ethicsdivision@doc.gov or 202-482-5384.

FINANCIAL HOLDINGS

In the Department of Commerce, there are no specific investments that are barred by law (other than a bar on United States Patent and Trademark Office employees obtaining interests in a patent). However, depending on your position, some investments may present a conflict of interest and would need to be divested shortly after your appointment.

A conflict of interest statute provides that a Federal employee may not work on any matter as a Government official affecting the employee's personal financial interests or those of the employee's spouse or minor children. This means that once appointed you may not work on a policy or program that will affect a company in which you (or your spouse or minor child) owns stock, including an effect on the company as a member of an industry sector or other group. This restriction does not apply to stock holdings of \$15,000 or less (if the stock is traded on a U.S. exchange) or stock held through a diversified mutual fund. However, other holdings could result in the need to disqualify yourself from participating in important policy matters. If such disqualification will so limit you that you cannot effectively perform in your designated Federal position, you may need to sell the stock.

Selling Financial Holdings to Avoid A Conflict of Interest. If you (or your spouse or children) are required to sell a financial interest to avoid a conflict of interest, there is a procedure to defer any capital gains taxes on the proceeds from such a sale, depending on the nature of the asset and in what the proceeds will be reinvested. You should speak to a Commerce ethics official if you anticipate the need to sell any asset.

NON-FEDERAL EMPLOYERS AND OUTSIDE ORGANIZATIONS

Payments from Former Employers. If you will be receiving any severance pay or other compensation from a former employer after you enter into Government service, you may be required to provide evidence that the amount of such payment is not related to your Federal position (which would be an improper supplementation of your Federal salary) or that it is not based, in whole or in part, from representational activities by yourself or someone else before a Federal agency or Federal court (which might be the case, for example, if you are receiving a partnership distribution from a law firm with a Federal practice).

Disqualification Requirements Regarding Former Employers and Clients. After you are appointed as a Government official, you may not work on any matter for the Government in which one of the parties is someone you worked for recently or was a client recently. For political appointees, the restriction applies to former employers and clients you had during the two years before your appointment; for other employees, employers and clients during only the previous one year are considered. The restriction will continue for two years after your appointment if you are a political appointee or one year after the end of the employment or end of the client relationship if you are a career appointee. This restriction applies only to matters before the Government in which specific named parties are identified, such as contracts, grants, law suits, licenses, and patents; it does not apply to general policy issues, such as regulations and legislation. If you will work primarily on policy matters, this restriction should not significantly interfere with your ability to perform important duties. On the other hand, if you are being appointed to work primarily on a specific contract or grant and had an employment or consultant relationship with the contractor or grantee, you should discuss this disqualification requirement with a Commerce ethics official.

Appointment of Former Lobbyists to the Federal Government. If you registered as a lobbyist under the Lobbying Disclosure Act within the past two years, you may be barred from appointment to certain positions. Contact an ethics official if this applies to you.

Disqualification Requirements Regarding Outside Employers and Organization in Which Active. You are also disqualified from participating in matters as a Government official that will affect the financial interests of any outside (non-Federal) employer or an organization in which you hold a position as an officer or director. A similar, but more limited disqualification applies to organizations in which you are active, such as organizations in which you serve on a committee or organize events (but not organizations in which you pay dues and attend meetings but are not otherwise active). This more limited disqualification applies only to

matters in which the organization is a party (or represents a party) before the Government. If such employment, position, or activities will impair your ability to perform your duties because of this disqualification requirement, you may be required to resign from the position or limit your activities. If you are a political appointee, there are also restrictions on serving with a professional organization that provides services in a fiduciary capacity (such as a law firm) or being affiliated with such a firm. Furthermore, there are limits on the compensation you can receive from outside employment if you are a senior political appointee. (Presidential appointees in Senate-confirmed positions cannot receive any outside earned income, for example). Approval is also required for some outside activities, such as teaching if you are a senior political appointee. Contact a Commerce ethics attorney if you anticipate doing any outside work during the period of your Federal employment.

Representing Others Before the Federal Government. You also cannot serve as someone's representative before the Federal Government while you serve in the U.S. Government. This is the case even with regard to contacting a Federal agency on behalf of a relative, although *with prior approval* such communications may be allowed regarding a spouse, parent, or child. You also cannot receive payments based on the representational activities before Federal agencies or courts, which may be the case, for example, if you are a partner in a law firm or consulting firm that has a Federal practice.

Work for a Foreign Government. You cannot be a foreign agent or be employed by a foreign government while you serve as an employee of the United States Government.

GIFTS

Federal employees are subject to limits on gifts they may accept from anyone with interests before their agency. Because of the broad scope of the responsibilities of the Department of Commerce, a gift from almost any company or organization would be covered by this rule, although exceptions allow you to accept gifts in a number of circumstances, such as gifts of minimal value in most cases or invitations to receptions and other widely-attended events (after you receive approval). If you anticipate receiving gifts or a party in your honor after your appointment to the Government from a former employer or others, such as a farewell party or a party to celebrate your new position, please speak with a Commerce ethics official about whether such an event will present a problem and whether it can be organized in such a way as to avoid legal problems.

Gifts from Lobbyists. If you are a political appointee, you will be barred from accepting gifts and invitations from lobbyists and lobbying organizations in most cases, even if of minimal value, but an exception allows for acceptance when based on a personal relationship.

POLITICAL ACTIVITIES

You can be politically active and hold a position in a political organization, even after being appointed to the United States Government (unless you are being appointed to a career position in the Senior Executive Service or as a NOAA Corps officer), but you must be careful not to engage in any political activities while on duty or on Government premises. You will also need to be careful not to use any Government resources (such as access to the internet or an email account) for political purposes.

When off-duty, you will be subject to two restrictions regarding political activities; you cannot:

- ask for or accept a political contribution for a candidate or political party—in other words, you cannot personally engage in any political fund-raising, such as by hosting a fund-raiser, serving on a host committee, or even just inviting others to a fund-raiser—but you can attend a fund-raiser and give a contribution to a candidate or party or
- run for office in a partisan election (meaning an election in which candidates are identified by party affiliation).

RESTRICTIONS AFTER LEAVING FEDERAL SERVICE

After you leave Government service you will be subject to some restrictions, primarily concerning contacting the United States Government on behalf of someone else.

After you leave Federal service, you cannot:

- represent anyone before any Federal agency or Federal court concerning a matter involving specific parties on which you worked or, for two years, a specific-party matter on which a subordinate worked during your last year of Government service (note that this does not bar communications regarding policy matters, only matters in which parties are specifically named, such as contracts, court cases, and grants) or
- if you are a political appointee, lobby any political appointee in the Executive Branch for the remainder of the President's Administration (which means engage in lobbying activities that require registration under the Lobbying Disclosure Act).

Definitions:

"Represent" – This means any communication made with the intent to influence the Government on behalf of someone else.

"Specific Party Matter" – This is a matter in which there are identified named parties, such as a contract, grant, law suit, or patent.

In addition, if you are a “senior employee,” meaning that your annual base pay is \$155,440 or more per year, you cannot:

- represent anyone before the Department of Commerce (if you are a Senate-confirmed Presidential appointee) or the specific agency in which you worked (if you are not Senate-confirmed) for up to 2 years after you leave Federal service or
- represent a foreign government before any branch of the United States Government or advise or assist a foreign government regarding its dealings with the United States Government for 1 year after you leave Federal service.

If you have a decision-making role regarding a procurement of \$10,000,000 or more, you cannot receive compensation from the contractor for one year after your work on the contract.

You will also be barred, after leaving the Government, from disclosing nonpublic information you learned during the course of your Federal service.

DISCLOSURE OF FINANCIAL INTERESTS

If you will be a political appointee, a member of the Senior Executive Service, a procurement official, or an employee with responsibilities likely to affect the public, you will be required to file a financial disclosure report within 30 days of your appointment (OGE Form 278 or OGE Form 450). Reports of senior employees and political appointees are available to the public.

You must list on these reports:

- assets you hold (and, for senior officials, their value);
- sources of income (and, for senior officials, the amount of such income);
- liabilities over \$10,000 (other than a mortgage for your personal residence);
- agreements you have with prior or future employers; and
- positions you hold outside the Federal Government.

You will need to file a new report every year, which will also include gifts you received during your Federal service and, for senior employees and political appointees, information on the amount and dates of purchases and sales of stocks, bonds, and other financial holdings). Please be prepared to keep records on such information.

If you have a question on any of the matters addressed in this handout, or on other ethics-related issues, please contact an attorney in the Ethics Law and Programs Division at ethicsdivision@doc.gov or 202-482-5384.

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