

2014 – UNITED STATES DEPARTMENT OF COMMERCE – 2014

SUMMARY OF ETHICS RULES FOR SPECIAL GOVERNMENT EMPLOYEES



PUBLIC SERVICE IS A PUBLIC TRUST

Ethics



ETHICS LAW AND PROGRAMS DIVISION
OFFICE OF THE ASSISTANT GENERAL COUNSEL FOR ADMINISTRATION
202-482-5384 – ethicsdivision@doc.gov – www.commerce.gov/ethics

Ethics



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.

Special Government Employees. The term “special Government employee” (SGE) is used for anyone who is appointed to the Federal Government for service that will not exceed 130 days in a 365-day period. Many members of Federal advisory committees are SGEs, as are persons hired as consultants, advisors, and experts. However, persons providing services under a contract to the Government and individuals who serve as “representatives” on Federal advisory committees are not Federal employees or SGEs and are not subject to most of the Federal ethics rules. If you have a question regarding the nature of your service, contact the person who appointed you or a Commerce ethics official at 202-482-5384.

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 of the U.S. Department of Commerce 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*

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.



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 requires your disqualification from participating in a matter in which you have a financial interest, so that you are not put in a situation to choose between your personal interests and your duty to the Government.

General Rule. Unless you receive a conflict of interest waiver, you cannot 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 regarding a matter in which it is not a party (and, if it is a broad policy matter, 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; waivers are generally available for members of Federal advisory committees but not other SGEs.

Members of Federal Advisory Committees. Many persons who serve on Federal advisory committees serve as a “special Government employee” (SGE). If you serve on a Federal advisory committee as an SGE, the disqualification regarding your non-Federal private sector employer is automatically waived and you are eligible for a waiver regarding other financial and organizational interests from the head of the agency to which the committee reports. To obtain such a waiver you must file a financial disclosure report. It is important to obtain the waiver before you attend any committee meetings. It is also important to get an updated waiver, as necessary, if your interests change between meetings.



APPEARANCES OF BIAS

Basic Principle: No Favoritism



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 in 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. Unless you receive special authorization, you cannot 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. 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 whether you are a political appointee); and
- organizations (other than political parties) in which you are an active participant.

Exception to the General Rule. You can work as an SGE on a matter in which someone with whom you have a covered relationship is a party or represents a party if you receive specific authorization to do so, which must be based on a determination that the interest of the Government in your participation outweighs a concern that someone may question the integrity of the Department’s programs and operations. Contact a Commerce ethics official at 202-482-5384 for advice on receiving such an authorization if you believe one is appropriate and necessary.

Members of Federal Advisory Committees. These restrictions are not likely to limit your actions as a member of a Federal advisory committee because most committees address broad policy matters rather than matters in which there are specific named parties and the personal relationship disqualification is applies only to matters involving specific parties, not policy issues. However, if you are presented with a matter in which there are named parties, you must keep this restriction in mind.



GIFTS AND BRIBES

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, including special Government employees.

General Rule concerning Bribes. You cannot receive anything of value from a source other than the United States Government for taking or not taking action as a Government official.

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

Exceptions to the General Rules concerning Personal Gifts. You can 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);*
- meals overseas you are attending in connection with your Government position, 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 \$375 or less—gifts over \$375 may be accepted, but become property of the United States Government.

** This exception cannot be used if you are a political appointee and the gift or invitation is from a lobbyist or a lobbying organization that is not a media company or a 501(c)(3) organization.*

† An event is a "widely-attended" gathering if a large and diverse number of people from outside the U.S. Government are expected to attend and the event is not primarily entertainment; if the invitation is from someone other than the host of the event, more than 100 persons must be attending and the value must be \$350 or less to use this exception. A form for supervisory approval can be downloaded from the Ethics Law and Programs Division web page at www.commerce.gov/ethics.

Members of Federal Advisory Committees. You are allowed to accept gifts and invitations from other committee members and to continue to receive your salary from your non-Federal employer on days you are serving as a committee member.



NON-FEDERAL EMPLOYMENT AND 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 cannot engage in non-Federal employment that conflicts with your Government duties, such as an activity barred by law, such as employment with a foreign government (unless your Federal service is limited to service on a Federal advisory committee) or an activity that requires you to represent others before the Government (see the next page) or that requires your disqualification from assignments critical to the performance of your Federal duties.

Disqualifications relating to Non-Federal Employment and Positions Outside the Government. You cannot participate as a Federal employee on any matter that will affect the financial interests of a non-Federal employer or an organization in which you serve as an officer or director or a member of a governing board (but see below if you serve on a Federal advisory committee). This restriction applies to policy matters (including regulations and legislation) affecting an outside employer or an organization in which you serve, even if the employer or organization is not directly a party in the matter before the Government but will be affected as part of an industry sector or other group. If this restriction will mean that you cannot effectively perform your Commerce duties, discuss this matter with a Commerce ethics official.

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.

Members of Federal Advisory Committees. If you serve on a Federal advisory committee, you are not disqualified from working on matters affecting your primary non-Federal employer and are eligible for a waiver regarding other disqualifications, such as for service as an officer or board member of a non-Federal organization.



CONTACTING FEDERAL OFFICIALS ON BEHALF OF OTHERS

Basic Principle: Avoid Divided Loyalties



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

General Rules on Contacting Government Officials. You cannot 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, litigation, or other matters in which specific entities 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 Representational Activities of Others. In addition to being restricted from representing others before the Federal Government, you also cannot accept payments for the representational activities of others (such as an attorney in a law firm in which you are a partner) before a Federal agency or court regarding a matter involving specific parties:

- in which you participated personally and substantially or
- if you served for 61-130 days in a 365-day period, pending before the Department of Commerce during your period of service.

For purposes of this restriction, “represent” means a communication to a Federal agency or court on behalf of someone other than yourself in order to influence Government action.

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

Service as an Expert Witness. Unless you receive prior authorization, you cannot 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 agency if the Department of Commerce is a party or has a direct and substantial interest in the matter, unless you receive prior authorization.



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 can only use Government equipment, supplies, services, and personnel for authorized Government activities. Furthermore, your Government title cannot 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 (except as part of general biographical information, see below). You cannot 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 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 and Frequent Flier Benefits. You can 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 can use frequent flier miles and other benefits obtained from Government-provided travel for personal purposes, including personal travel or upgrades on Government travel.

Members of Federal Advisory Committees. If you serve on a Federal advisory committee, it is important that you safeguard any nonpublic information you receive, including drafts of documents before they are approved for release. If you have a question regarding the status of any information provided to you, discuss it with the Designated Federal Official for your committee.



RESTRICTIONS AFTER LEAVING FEDERAL SERVICE

Basic Principle: Follow “Revolving Door” Rules



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

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

- any matter that concerns named parties (such as a contract, grant, license, 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 \$156,997.50 per year or more in 2014), you cannot for one year after leaving Federal service:

- contact anyone in the Department of Commerce (or the component in which you served) on behalf of someone else or
- 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 cannot use or disclose nonpublic information you obtained through your service with the Government, such as personal information found in personnel records, proprietary business information, trade secrets, and national security information.

Exceptions. There are exceptions to some of these restrictions, including for communications 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 when in employment discussions you are disqualified from participating as a Federal official on any matter in which a prospective employer has a financial interest. Furthermore, if you are required to file a public financial disclosure report (OGE Form 278), you must also give notice of an employment negotiation and your disqualification regarding the prospective employer to an ethics official within three days of the beginning of the employment negotiation.

Contact a Commerce ethics official at 202-482-5384 or ethicsdivision@doc.gov for advice on these rules or to obtain a handout explaining these rules in more detail.



FINANCIAL DISCLOSURE

Basic Principle: Tell the 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.

Members of Federal Advisory Committees. If you serve on a Federal advisory committee, your financial disclosure report is used to prepare a waiver of disqualification requirements that would otherwise apply regarding entities in which you have financial or employment interests. Therefore, it is particularly important to provide a form as soon as possible and before attending a committee meeting.

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.

**Additional information is also available at:
www.commerce.gov/ethics.**



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 and 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 and 2635.801–2635.809

Contacting the Government

18 U.S.C. §§ 203 and 205

Political Activities

5 U.S.C. §§ 7321–7326
5 C.F.R. §§ 734.201–734.702 and 734.201–734.702

Financial Conflicts of Interest

18 U.S.C. § 208
35 U.S.C. § 4
5 C.F.R. §§ 2635.401–2635.403, 2635.502, and 2640.201–2640.202

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)

