UNITED STATES DEPARTMENT OF COMMERCE

SUMMARY OF ETHICS RULES FOR SPECIAL GOVERNMENT EMPLOYEES

2016

ETHICS LAW AND PROGRAMS DIVISION
OFFICE OF THE GENERAL COUNSEL
UNITED STATES DEPARTMENT OF COMMERCE
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.

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 for the U.S. Department of Commerce:

Alternate Agency Ethics Official:
David Maggi – Chief, Ethics Law and Programs Division

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.*

CONFLICTS OF INTEREST AND DISQUALIFICATIONS

Basic Principle: No Self-Dealing and No Special Favors

A conflict of interest statute requires your disqualification from participating in a matter—including by giving advice or making a recommendation—in which you or your spouse, minor child, partner, household member, or employer has a financial interest. However, there are some exceptions to this general rule, including if a waiver has been granted, which is often the case for members of Federal advisory committees.

FINANCIAL CONFLICTS OF INTEREST

PERMITTED ACTIONS
No Conflict – No Disqualification

You can work on matters affecting a financial interest:

- in a stock* or bond* of $15,000 or less;
- in a broadly-diversified mutual fund;*
- in a sector-specific fund* (a fund that invests in a specific industry sector or state or foreign country) valued at $50,000 or less;
- held by an adult child (if not living in your household); or
- covered by a conflict of interest waiver.

ACTIONS PERMITTED IN PART
Limited Disqualification – Some Disqualification Required

You can participate in general policy matters but not in matters involving specific parties that will affect:

- a company in which you hold† stock valued at $15,001-$25,000;
- financial interests of a member of your household who is not a spouse or minor child;
- financial interests covered by a conflict of interest waiver; or
- if you serve on a Federal advisory committee, your primary employer.

PROHIBITED ACTIONS
Conflict of Interest – Disqualification Required

You cannot work on a matter if agency action will affect:

- a company in which you hold:†
  - stock* of greater than $15,000,
  - stock* of greater than $25,000 regarding a policy matter affecting the company as a member of an industry sector,
  - stock* totaling greater than $50,000 in companies that will be affected by the matter at issue, or
  - interests in a sector-specific mutual fund greater than $50,000; or
- financial interests you hold† that are not securities traded on a U.S. exchange, such as real estate, partnership holdings, securities traded only on a foreign exchange, stock options, patent rights; or
- a company, organization, or other entity with which you:
  - are employed;
  - serve as an officer; or
  - serve on a governing board (except that disqualification is not required for your primary employer if you serve on a Federal advisory committee).

** if traded on a U.S. exchange*
†or your spouse, minor child, household member, or general partner holds

CONFLICTS OF INTEREST AND DISQUALIFICATIONS
(continued)

CONFLICTS OF INTEREST BASED ON PERSONAL RELATIONSHIPS

PERMITTED ACTIONS
No Conflict – No Disqualification

You can work on a matter in which one of the parties is (or is represented by) someone with whom you have a personal relationship if:

- the relationship concerns:
  - a close friend,
  - a former employer or client you worked for more than one year ago (career employees) or more than two years before your appointment (political appointees),
  - an organization in which you are a member but not active (other than by attending meetings and paying dues), or
  - someone with whom your business dealings are limited to routine consumer transactions or
- you have received special authorization to work on the matter due to the needs of the Government (which can be obtained through the Ethics Law and Programs Division).

PROHIBITED ACTIONS
Conflict of Interest
– Disqualification Required

You cannot work on a matter in which one of the parties is (or is represented by):

- someone with whom you have a business or financial relationship;
- a close relative;
- an organization in which you are active;
- the employer or client (or prospective employer or client) of your parents, spouse, or dependent child;
- someone with whom you were employed or served as an agent, attorney, consultant, contractor, director, general partner, or trustee during the past year; or
- if you are a political appointee, for a period of two years after your appointment, someone with whom you were employed or served as an agent, attorney, consultant, contractor, director, general partner, or trustee during the two years before your appointment.

RESTRICTIONS ON INVESTMENTS

You cannot:

- use nonpublic information from Federal employment for an investment decision or
- if you are required to file a public financial disclosure report (OGE Form 278), invest in an Initial Public Offering (IPO) except in the same manner as is available to members of the public generally.

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.

BRIBES

A bribe is any payment or benefit that is offered for you to take action, or fail to take action, as a Government employee. Bribes are always prohibited. Gifts are gratuities not tied to a specific Government action; unlike bribes, some gifts are allowed.

PERSONAL GIFTS FROM NON-GOVERNMENT SOURCES

PERMITTED GIFTS

All Employees: You can accept a gift or invitation if it:

- was offered by someone with no matters before Commerce and not offered because of your Government position;
- is from a relative or friend;
- is a meal at which you are speaking;
- is a discount available to the public as a whole or to all Federal employees;
- was offered because of your spouse's employment;
- is an item of little intrinsic value; or
- is from a foreign government and valued at $375 or less.

Employees Who Are Not Political Appointees: If you are not a political appointee, you can also accept a gift or invitation if it is:

- a meal, lodging, or travel related to an outside business relationship;
- $20 or less in value (and you $50 or less during the year from the same source);
- an invitation to a widely-attended gathering and your supervisor has approved your attendance; or
- an award for which you received approval to accept from an ethics official.

PROHIBITED GIFTS

All Employees: You cannot accept a gift or invitation if:

- it is offered by someone that is regulated by Commerce, has or seeks business with Commerce, or can be affected by performance of your Government duties (unless it is listed as allowed);
- it is offered because of your Government position (unless it is listed as allowed);
- it is specifically to take action (or fail to take action) as a Government employee.

Political Appointees: You also cannot accept a gift or invitation:

- if offered by a registered lobbyist or lobbying organization unless:
  - it is listed as allowed for all employees or
  - it is provided by a 501(c)(3) organization or a media company and is listed as allowed for either all employees or employees who are not political appointees.

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. You are required to disqualify yourself from participating on matters in which an outside employer, or an organization in which you serve as an officer or board member, has a financial interest, unless you serve on a Federal advisory committee with regard to general policy matters in which your primary employer has an interest. If you think that this disqualification requirement will prevent you from performing important Government duties, please discuss your situation with an attorney in the Department of Commerce's Ethics Law and Programs Division (202-482-5384 or ethicsdivision@doc.gov). Laws and policies also bar some outside activities.

PERMITTED ACTIVITIES

- You can work for someone who has matters before your office or Federal advisory committee (unless listed as prohbited in the column on the right) but cannot work on anything affecting the interests of an outside employer (except with regard to policy matters affecting your primary outside employer if you serve on a Federal advisory committee).
- You can teach and write about Commerce programs, operations, and policies if you do not disclose nonpublic information and are not paid (but prior review is necessary).
- You can teach and write (for pay) if the subject is not related to the programs, policies, or operations of Commerce.
- You can work for a foreign government if your only Federal service is as a member of a Federal advisory committee.
- You can engage in political activities, including running for office and fund-raising, if you do so only during non-duty hours and if you do not use any Government resources.

PROHIBITED ACTIVITIES

- You cannot be a registered lobbyist.
- You cannot serve as a registered foreign agent.
- You cannot represent someone, or receive compensation due to someone else's representational activities (such as a partner's), before a Federal agency or Federal court regarding:
  - a matter involving specific parties on which you participated as a special Government employee or
  - if you serve for 61-130 days, a matter involving specific parties that was pending before the Department of Commerce during the period of your appointment.
- You cannot be paid for teaching or writing about programs, policies, and operations of Commerce or, if you are a political appointee in the Senior Executive Service (SES), about any subject areas under the responsibility of Commerce.
- You cannot be employed by a foreign government, unless your only service is as a member of a Federal advisory committee.
- You cannot engage in political activities during Federal duty hours.

MISUSE OF GOVERNMENT RESOURCES

Basic Principle: Do Not Steal

As a Federal employee you have access to equipment, services, supplies, and other resources that are paid for by the Government to promote public programs. Even the authority of your position, nonpublic information, and your Government title are considered public property. You must be careful to use such resources only for Government purposes or, in a few cases, personal purposes that are specifically authorized, as listed below.

PERMITTED USES

You can use:

- access to the Internet and a personal email account for personal research or to send a personal email;*
- Government printers and copiers for personal purposes* if such use does not consume excessive resources;
- your Government title for personal purposes if not likely to appear as acting in an official capacity, as part of general biographical information (such as a biographical sketch in a book or on Facebook®), or when writing for a scientific or technical publication (if the publication includes a disclaimer that the views are your own and not the Department's); and
- frequent flier miles or other travel benefits earned from Government travel for personal purposes, including vacation travel.

  ** unless it is for a business purpose, a political purpose, a lobbying activity, will result in additional charges to the Government, is discriminatory, concerns sexually explicit materials, would violate a law, or would bring discredit to the Government*

PROHIBITED USES

You cannot use:

- a Government credit card for personal purchases (except those specifically authorized);
- access to the internet or an email account from a Government computer or mobile device:
  - to view sexually explicit material;
  - for for-profit activities or to run a business;
  - for political purposes, including by sending email to support or oppose a candidate or political party;
  - for prohibited discriminatory conduct;
  - for lobbying activities;
  - for any unlawful purpose or any activity that would bring discredit on the Department;
- nonpublic information for any personal purpose, such as to make investments;
- your Government title for personal purposes (except in connection with a publication in a scientific or technical journal (with a disclaimer) or as part of a general biographical description);
- Government time for personal activities; or
- your Government authority to help yourself or others on personal matters.

SEEKING EMPLOYMENT AND POST-EMPLOYMENT ACTIVITIES

Basic Principle: Avoid Divided Loyalties

SEEKING EMPLOYMENT OUTSIDE THE U.S. GOVERNMENT

You are free to look for career opportunities outside the Federal Government but cannot work as a special Govenrment employee on any matter that would affect anyone you have contacted about possible future employment or who has contacted you about such employment, until you or the other party indicate the end of discussions.

Notice Requirements: If you are a member of the SES, a political appointee, an SL/ST employee, or someone otherwise required to file a public financial disclosure report (OGE Form 278), you must notify an ethics official within three days of an employment contact that you will not participate in matters affecting the financial interests of the prospective employeer. If you are a procurement official for a procurement valued at $150,000 or more, you must notify your supervisor and an ethics official about employment contacts.

POST-EMPLOYMENT RESTRICTIONS ON ALL EMPLOYEES

PERMITTED ACTIVITIES

You can engage in an activity after leaving Federal service that:

- does not entail representing others before the Federal Government;
- entails representing others before the Federal Government regarding a matter on which you did not participate and was not under your official responsibility during your last year of Federal service (unless you are a senior employee and the activity is listed as prohibited);
- entails representing others before the Federal Government on a matter that does not involve specific parties (unless you are a senior employee and the activity is listed as prohibited below); or
- entails representing the District of Columbia or, as an elected official, a state or local government before the Federal Government.

PROHIBITED ACTIVITIES

After leaving Federal service you cannot:

- represent others before a Federal agency or Federal court regarding a specific-party matter on which you worked personally;
- represent others before a Federal agency or Federal court within two years of leaving Commerce regarding a specific-party matter that was under your official responsibility during your last year of Federal service;
- disclose or use nonpublic information, such as personal privacy information, information on treaty negotiations, national security information, and trade secrets; or
- receive compensation for the representational activities of others (such as partners) before the Federal Government during a period you worked for the Government.

Also see the additional restrictions below if you are a senior employee, political appointee, procurement official, or attorney.)

POST-EMPLOYMENT RESTRICTIONS (continued)

ADDITIONAL POST-EMPLOYMENT RESTRICTIONS ON ALL SENIOR EMPLOYEES (employees with a base pay of $160,111.50 or more)

PERMITTED ACTIVITIES

In addition to the activities listed above as permitted for all employees, you can:

- represent an institution of higher education, a hospital, or a medical research organization before your agency concerning a matter that is not a specific-party matter on which you worked or which was under your official responsibility.

PROHIBITED ACTIVITIES

In addition to the restrictions listed above that apply to all employees, if you are a senior employee you cannot, for one year after leaving Federal service you cannot

- represent others before the agency in which you are employed;
- represent a foreign government before any branch of the U.S. Government (including Congress); or
- assist or advise a foreign government regarding its dealings with the United States Government.

ADDITIONAL POST-EMPLOYMENT RESTRICTIONS ON POLITICAL APPOINTEES

PERMITTED ACTIVITIES

In addition to the activities listed above as allowed for all employees, you can:

- represent an institution of higher education, a hospital, or a medical research organization before your agency concerning a matter that is not a specific-party matter on which you worked or which was under your official responsibility.

PROHIBITED ACTIVITIES

In addition to the restrictions listed above that apply to all employees (and senior employees, if applicable), if you are a political appointee you cannot:

- for the remainder of the President's term serve as a lobbyist before any political appointee in the Executive Branch and
- if you are a senior employee, for two years represent others before your agency.

PROHIBITED

ATTORNEYS: If you are a member of a bar you cannot engage in any activities prohibited by bar rules, including behind-the-scenes legal services in some cases.

EDA EMPLOYEES: If you are an Economic Development Administration (EDA) employee, for two years you cannot accept employment with or perform services for a firm to which EDA provided economic assistance if you worked on that assistance.

USPTO EMPLOYEES: If you are a United States Patent and Trademark (USPTO) employee, you are barred during your period of service and one year thereafter from applying for a patent or obtaining patent rights (other than through inheritance.

FINANCIAL DISCLOSURE AND ETHICS TRAINING

Basic Principle: Tell the Whole Truth and Keep Informed

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.

For ethics officials to be able to provide 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.

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 report as soon as possible and before attending a committee meeting.

CITATIONS TO APPLICABLE LAW

Conflicts of Interest and Disqualifications

18 United States Code (U.S.C.) § 208
35 U.S.C. § 4
5 Code of Federal Regulations (C.F.R.) §§ 2635.401–2635.403, 2635.501-2635.503, 2640.201–2640.202
Ethics Pledge, Executive Order No. 13490, 74 Fed. Reg. 4673 (1/21/2009)

Gifts and Bribes

18 U.S.C. § 201
5 C.F.R. §§ 2635.201–2635.205
Ethics Pledge, Executive Order No. 13490, 74 Fed. Reg. 4673 (1/21/2009)

Non-Federal Employment and Outside Activities

18 U.S.C. §§ 203, 205, and 208
5 C.F.R. §§ 734.601, 2635.801–2635.809

Misuse of Government Position and Resources

18 U.S.C. § 641
5 C.F.R. §§ 2635.701–2635.705
Department of Commerce Internet Use Policy

Seeking Employment and Post-Employment Activities

5 U.S.C. app. 4 § 101 note [Pub. L. No. 112-105, § 17(a), 126 Stat. 291, 303]
18 U.S.C. §§ 207 and 208
35 U.S.C. § 4
41 U.S.C. §§ 423 and 2103
5 C.F.R. Parts 2635, 2637, and 2641

Prepared by the Ethics Law and Programs Division, Office of the General Counsel, United States Department of Commerce – 202-482-5384 – ethicsdivision@doc.gov – January 11, 2016